

A Human Rights-Based Approach to Sustainable Urbanization and the Realization of Human Rights in the City

A Think Piece for the preparation
of the Habitat III Conference, 2016

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Introduction

Background

→ Purpose and Objectives

→ Reasons for Adopting a Human Rights-Based Approach by UN-Habitat

Background

At the beginning of the 19th century, only 2 per cent of the world's population was urban. By the beginning of the 20th century, the percentage had increased to 10. During the first decade of the 21st century, a historic milestone was reached when the population living in cities and towns exceeded 50 per cent of the global population, thus making urban centers the dominant habitat of humankind. - And the level of urbanization is increasing, with 60 per cent of the world's population expected to live in cities by 2030 and nearly 70 per cent by 2050. Most of this growth, at least 90 per cent, will take place in low-income countries, some of which are fragile states plagued with recurrent conflicts.¹

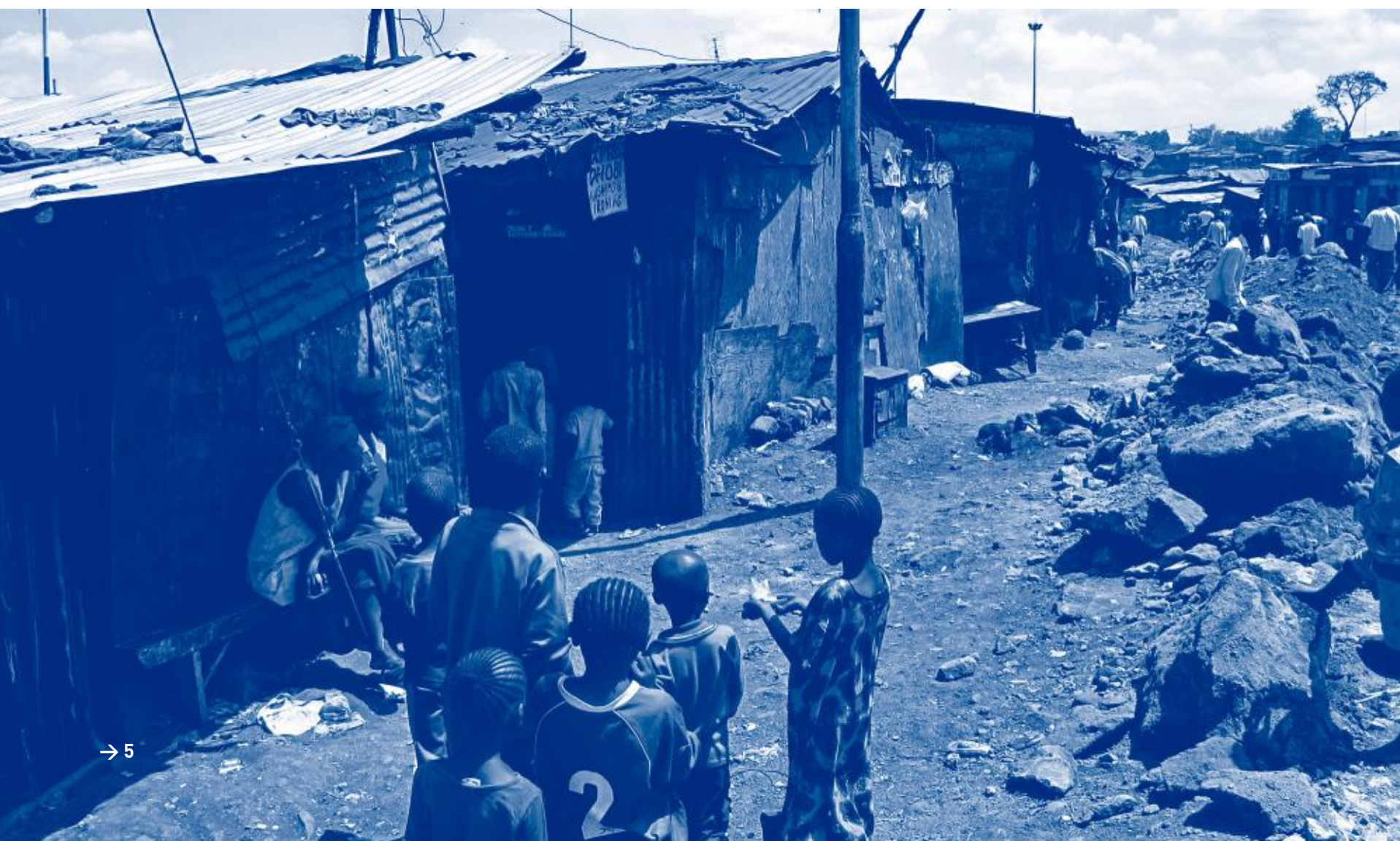
There has been a gradual move in "urban thinking" from a focus on "the city" towards a focus on both 'the city and urbanization'. Urban Governance illustrates the earlier city focus, as reflected in the UN-Habitat launch in the early 2000s of the Inclusive Cities Initiative as part of the Global Campaign on Urban Governance, while the focus on both the city and urbanization is illustrated by the current common emphasis on sustainable cities and sustainable urbanization.

The whole discussion about The Right to the City and Rights in the City has to some extent dominated the "urban discussion" during the first decade of the 21st century. Harvey contributed to a move from a single focus on the "city" to include reflection and analysis of the urbanization that is creating the city.² UN-Habitat gradually changed to a focus on Sustainable Urban Development, Sustainable Urbanization,

and Urbanization for Sustainable Development, which clearly and explicitly reflect a simultaneous focus on both the city as an outcome and the processes of urbanization resulting in this city.

Two major changes have taken place in relation to urbanization and city development. First, the fact that the last decades of rapid urbanization will continue and that there are possibilities to make urbanization result in sustainable cities. Second, the fact that the international human rights protection framework has never been as alive as it is today.³ There is an urgent need, and a great opportunity in bringing these two processes together. The 2003 UN Common Understanding on a Human Rights-Based Approach (HRBA) to Development provides the commonly agreed framework for that to happen.

In 2012, both the Quadrennial Comprehensive Policy Review (QCPR)⁴ and the United Nations Conference on Sustainable Development (Rio+20)⁵ significantly contributed to a greater awareness and emphasis on the need to integrate human rights into current and future UN development agendas. In 2013, the UN Secretary General launched the Human Rights Up Front Initiative in a continued and strengthened effort to bring human rights to the heart of UN operations globally.⁶ Lastly, the 2030 Sustainable Development Agenda agreed by UN Member States in September 2015 created a strongly human rights-based framework, with the pledge to "leave no one behind", and to "reach those furthest behind first".



NOTE

1. CEB High-Level Committee on Programmes (2014); Urbanization and Sustainable Development: Towards a New United Nations Urban Agenda; New York, 10 October 2014
2. Harvey, D. (2008), The Right to the City; New Left Review 53, September-October 2008
3. David P. Forsythe (2000); Human Rights in International Relations, Cambridge University Press, 2000, Part I: Introduction: Human rights in international relations & Establishing human rights standards, pp. 3-52; and: Stephen D. Krasner (Ed.), International Regimes, Cornell University Press, 1995, pp.1-21
4. UN (2012); Quadrennial Comprehensive Policy Review (QCPR); New York, 2012
5. UN (2012); The United Nations Conference on Sustainable Development; Rio de Janeiro, 20-22 June 2012
6. <http://www.un.org/sg/rightsupfront/>

→ Purpose and Objectives

In the lead up to the Habitat III conference in 2016, UN-Habitat has initiated a process of producing a number of cutting edge think pieces which will contribute to the global discussion. These think pieces will serve as a conceptual background to inform the discussions leading to Habitat III. The Conference will be an effort to innovate and transcend traditional urban models to create truly integrated, inclusive and sustainable solutions. It will also be a key vehicle for implementing the Sustainable Development Goals, Goal 11 in particular.

The main purpose of this paper is to suggest a comprehensive human rights-based approach to urbanization with the aim to create cities where human rights are progressively realized. The two major objectives of this paper are:

1.

Review and analyze key past and current urbanization approaches and experiences from the view of integrating or mainstreaming human rights, or adopting a human rights-based approach.

2.

Develop and design a human rights-based approach for the process of urbanization and for the achievement of sustainable progressive realization of human rights in the urban setting as the outcome.

→ Reasons for Adopting
a Human Rights-Based Approach
by UN-Habitat

There are several reasons why UN-Habitat has adopted a Human Rights-Based Approach (HRBA) through its commitment to mainstreaming human rights in the UN-Habitat project cycle. First, since UN-Habitat became a United Nations Programme in 2001, it must adhere more strictly to the UN Charter and UN International Human Rights Treaties. Second, the last fifteen years of increased interest in human rights among most UN agencies, the new emphasis on the principle of Delivering as One, the strong adoption of a HRBA as one of the programming principles in the preparation of the UN Development Assistance Framework (UNDAF) at the country level have encouraged such an adoption.⁷ Third, increasingly donors, in particular the OECD countries, are adopting a HRBA and are pushing for other development agencies to do the same. This was clear at the UN Summits in 2005 and 2010. Fourth, and finally, HRBA is no longer a new approach; there are plenty of experiences to learn from and guide the adoption of a HRBA.

Moreover, the 1996 Habitat Agenda clearly demands UN-Habitat’s attention to human rights. UN-Habitat’s transformation to adopt a HRBA has been gradual and most recently discussed and agreed upon during the 25th Session of the UN-Habitat Council in April 2015; and the Executive Director and senior staff in UN-Habitat has provided leadership and enthusiasm in this regard.

NOTE

7. UN-Habitat (2011); UN Habitat Evaluation Brief, Evaluation Report 5/2011

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A Human Rights-Based approach (HRBA)

Human Rights

A Human Rights-Based Approach to Development

- A Re-Construction of Development into Outcome and Process
- Human Rights Principles and Standards
- Equality and Equity
- The UN Common Understanding on a Human Rights-Based Approach to Development Cooperation

HRBA Methodology

Advantages with a HRBA to Development

Categories of Human Rights Approaches to Development

- Assessment of UN-Habitat Publications

Approaches to Urbanization and Urban Development in a Human Rights perspective

- Inclusive Cities
- Prosperous Cities
- Harmonious Cities and Cities for Life
- Women-Friendly Cities
- Youth-Friendly Cities
- Green Cities
- Sustainable Cities

Human rights are universal values that belong to all human beings regardless of nationality, place of residence, sex, national or ethnic origin, color, religion, language or any other status. The legal content of human rights is the result of the codification of human rights into International Human Rights Law (IHRL), a result of the creation and work of the United Nations.

The Universal Declaration on Human Rights (1948) identifies Peace, Justice, Freedom and Human Rights as the four “Pillars of the United Nations”, and in addition, in the Preamble, human rights are recognized as the foundation of peace, justice and freedom in the world.

Since then, the United Nations has served as the institutional framework through which many other human rights instruments have been passed, signed, ratified, and implemented by states. The UDHR has acquired the status of a universally recognized norm of customary international law that binds all member states of the United Nations.

The UN reform launched by the Secretary-General in 1997—initially promoted as an administrative reform—rapidly opened the door to a “rediscovery” of the UN Charter. In 1999 the Secretary-General announced:

“As Secretary-General of the UN I have made human rights a priority in every programme the United Nations launches and in every mission we embark on. I have done so because the promotion and defense of human rights is at the heart of every aspect of our work and in every article of our Charter.”

UN agencies involved in country-level programmes of cooperation immediately embarked on a process of incorporating human rights into their operations. After a few years of confusion and debate, most UN agencies have now reached a consensus on the meaning of a Human Rights-Based Approach (HRBA). The current Guidelines for UNDAF stipulate an adoption of a HRBA as one of five programming principles.⁸ It should, however be recognized that two of the other principles, namely gender equality and capacity development, are automatically included in the HRBA to Development. The [International Covenant on Civil and Political Rights \(ICCPR\)](#) and the [International Covenant on Economic, Social and Cultural Rights \(ICESCR\)](#) were both adopted by the General Assembly in 1966 and entered into force in 1976.⁹ The UDHR, ICCPR, and ICESCR form the [Bill of Rights](#).

For many years there were countries that only recognized civil and political rights as [genuine human rights](#), while economic, social and cultural rights were seen only as ‘aspirational rights’. Finally, at the Vienna Conference on Human Rights

(1993) it was agreed that there is no principal difference between civil, cultural, economic, political and social rights. The context only determines which of the rights should be focused upon first.

A specific issue chosen is a right only if it has been codified in an International Human Rights Treaty (Covenant or Convention). This means that all people have such a right – they are right-holders. If a country (State party) has ratified that treaty, individuals move from being just a right-holder to being a claim-holder, with valid claims on others, who then become the correlative duty-bearers. This forms a “claim-duty pattern” in society, in which the State most often is the ultimate duty-bearer. Increasingly, however, “non-state duty-bearers” are being recognized.

In International Human Rights Law, four types of duties or obligations are recognized, as listed below. The last two are often seen together as the obligation to fulfill. The four duties or obligations are defined as follows: [\[1\]](#) The Duty/Obligation to Respect requires the duty-bearer to refrain from interfering directly or indirectly with the enjoyment of the right; [\[2\]](#) The Duty/Obligation to Protect requires the duty-bearer to take measures that prevent third parties from interfering with the enjoyment of the right; [\[3\]](#) The Duty/Obligation to Fulfill (Facilitate) requires duty-bearers to adopt appropriate legislative, administrative, budgetary, judicial, promotional, and other measures towards the full realization of the right; and [\[4\]](#) The Duty/Obligation to Fulfill (Provide) requires duty-bearers to directly provide assistance or services for the realization of the right.

NOTE

8. [UNDG \(2010\), Guidance Note; Application of the Programming Principles to the UNDAF; United Nations Development Group, January 2010](#)

9. [Steiner, H.J. and P. Alston \(2000\); International Human Rights: Law, Politics and Morals, Oxford University Press, 1996, 2nd edition, 2000](#)

10. [UN ICESCR and ICCPR \(1976\), Preamble; Alston, P. and N. Bhuta \(2005\), Human Rights and Public Goods: Education as a Fundamental Right in India, in P. Alston and M. Robinson \(2005\), “Human Rights and Development; Towards Mutual Reinforcement”, Oxford University Press, 2005; pp. 242-265; and Ljungman, C. M. Applying a Rights-Based Approach to Development: Concepts and Principles, Conference Paper: The Winners and Losers from Rights-Based Approaches to Development. COWI Consult, November 2004.](#)

A Human Rights-Based Approach to Development ¹¹

→ A Re-Construction of Development into Outcome and Process

In whatever way one defines “development”, it will require the satisfaction of at least two conditions; the achievement of a desirable outcome and the establishment of an adequate process to achieve this outcome. Effective human development also demands a high-quality process to achieve such outcomes. In economic development approaches, emphasis has been given to aspects like cost-efficiency and cost-effectiveness. Increasingly development processes are designed to meet the Paris Declaration criteria of [aid-effectiveness](#)¹². More recently the need to ensure that development processes do not result in increased inequities or inequalities have been emphasized.¹³

Level of outcome and quality of process define a two-dimensional space for action, as illustrated below. UNDP in its Practice Note on Poverty Reduction emphasized already more than ten years ago that “implementing the MDGs must take account of both process and outcome, something inherent to a human rights-based approach”.¹⁴



→ Human Rights Principles and Standards

A Human Rights Standard represents a desirable goal or an outcome of the realization of a specific human right. These standards are codified in human rights treaties, for example the rights to health, education, food, and adequate housing. There are many different ways of achieving a desirable outcome, or more precisely, there are different processes that can be used to reach a certain outcome. In a Human Rights-Based Approach (HRBA) the processes should meet the criteria of Human Rights Principles, in addition to relevant efficiency and effectiveness criteria, unless these compromise human rights.

According to the human rights-based approach, the process of urbanization should therefore adhere to the human rights principles of equality and non-discrimination, inclusion and participation, accountability and the rule of law. Concurrently, the city, as the outcome of this process, should meet specified human rights standards, for instance: adequate housing, access to water and sanitation, health and education services, work, participation in decisions that affect city inhabitants, or any other rights codified in the human rights treaties ratified by the country in question. Human rights principles, equality for example, should also be met in the definition of the desirable outcome.

NOTE

11. A detailed description of the use of a HRBA to Development is found in U. Jonsson (2013); Programmatic Guidance Note for UN-Habitat Staff: Promotion and Protection of Human Rights; UN-Habitat, Nairobi
12. OECD/DAC (2005), The Paris Declaration on Aid Effectiveness
13. Melamed, C. (2012), Putting inequality in the post-2015 picture; Overseas Development Institute (ODI), March 2012; and UNRISD (2012), Inequalities and the Post-2015 Development Agenda; Policy Brief 15, October 2012
14. UNDP (2003), Poverty Reduction and Human Rights. Practice Note New York, March 2003

During the last few years a new [Equity Agenda](#) is strongly promoted by many developing agencies and in the discussion of the SDGs. Too often “equity” and “equality” are used interchangeably.¹⁵ [Equality](#) and [equity](#) are, however, two different concepts increasingly used without recognition of the significant differences between them. Equality is a human rights principle meaning “the same”, while equity is a concept of justice, which means “fair”. There is no reference to equity in the United Nations Charter or in the Universal Declaration of Human Rights. There is no single definition of equity, and any interpretation of the concept reflects a value judgment. The difference between equality and equity can be illustrated with the following example: two individuals who do the same job and produce the same results should receive an equal salary, whilst individuals who do different jobs which require different skills should receive different salaries for reasons of fairness or justice. In other words, they should receive an equitable pay. Whilst in the first scenario a scientific comparison can be made, this is not possible in the second.

A new way of thinking about equity and equality would be to interpret the two concepts within the context of the Outcome/Process construct of development. Equality and equity would be defined according to four different categories: 1) equity in process; 2) equity in outcome; 3) equality in process; 4) equality in outcome.

[Affirmative action](#) is a concept, which is used in the struggle to achieve gender equality. For example, in higher education, when women are given priority over men in the candidate selection process for certain faculties (medicine, law, etc.), this “affirmative action” or “positive discrimination” would mean the use of an equitable (morally defensible unequal) process which allows equal outcomes (results) to be achieved.¹⁶ As a matter of fact equitable processes, that are not equal, are common in development work today. The World Bank’s definition of “equity” as “equal opportunities” reflects this.¹⁷

However, such a definition of the relationship between the process (equity) and outcome (equal opportunities) avoids the fact that equality of opportunity does not automatically result into [equality of results](#). A higher degree of equality of opportunity may be helpful but is seldom a sufficient condition for equality of results. This is why the government must take specific actions to ensure the latter.¹⁸

With these definitions, both equality and equity are important in development, but should each be applied where and when each of them is the appropriate choice, based on their different meanings in different contexts. In conclusion, [it is not either justice or human rights – It is both. It is not either equity or equality – It is both.](#)

NOTE

¹⁵. UNRISD (2012); *Inequalities and the Post-2015 Development Agenda*, Policy Brief 15, October 2012; and Anderson, E. and O’Neil, T. (2006); *A New Equity Agenda?* Working paper 265, ODI, April 2006

¹⁶. Jonsson, U. (2015); *Equality, Equity and Human Rights*; forthcoming

¹⁷. World Bank (2006); *World Development Report: Equity and Development*

¹⁸. Strauss, D.A. (1992), *The Illusory Distinction Between Equality of Opportunity and Equality of Result*; *William and Mary Law Review*; Vol.34, Issue 1, Article 10

→ The UN Common Understanding on a Human Rights-Based Approach to Development Cooperation

In March 2003 a group of UN agencies, under the auspices of the UN Development Group (UNDG), organized the second UN Interagency Workshop, in Stamford, US, on [Implementing a Human Rights-Based Approach in the Context of the UN Reform](#), which resulted in the Common Understanding of a Human Rights-Based Approach to Development Cooperation¹⁹. The agreement was summarized as follows:

1.

All programmes of development co-operation, policies and technical assistance should further the realization of human rights as laid down in the Universal Declaration of Human Rights and other human rights instruments.

2.

Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments should guide all development cooperation and programming in all sectors and in all phases of the programming process.

3.

Development cooperation should contribute to the development of capacities of 'claim-holders' to claim their rights and of 'duty-bearers' to meet their obligations.

The UNDG Programme Group, and many bilateral development agencies and International NGOs later endorsed the Common Understanding.

Based on the UN Common Understanding on a Human Right-Based Approach (HRBA), the overall meaning and purpose of HRBA was well formulated in the most recent UNDG's Guidance Note for programming within UNDAF.²⁰

“Further the realization of human rights and ensure that human rights standards and principles guide all development cooperation and programming in all sectors and in all phases of the programming process. It focuses on the development of the capacities of “duty- bearers” to meet their obligations and/or of “rights-holders” to claim their rights.”

NOTE

¹⁹. United Nations (2003), The Human Rights Based Approach to Development: Towards a Common Understanding Among the United Nations Agencies; Second Inter-Agency Workshop. Stamford, 2003

²⁰. United Nations Development Group (UNDG) (2010), Guidance Note; Application of the Programming Principles to the UNDAF, UNDG, January 2010, p.23

The UN Common Understanding on HRBA, with its main aim to further the realization of human rights using standards and principles set out in the Universal Declaration of Human Rights and International Human Rights Treaties, recommends that the human rights relationships among individuals and groups of individuals be determined in order to identify claim-holders and duty-bearers. It identifies claim-holders (and their claims or entitlements) and duty-bearers (and their correlative duties or obligations) and works towards strengthening the capacities of claim-holders to make their valid claims, and of duty-bearers to meet their duties.

The methodology consists of six consecutive steps: [\[1\]](#) Causality analysis; [\[2\]](#) Pattern analysis; [\[3\]](#) Capacity gap analysis; [\[4\]](#) Identification of priority actions; [\[5\]](#) Assessment of selected processes; and [\[6\]](#) Programme design. These steps are briefly described below.

Step 1: Causality analysis

Most often non-realization or threats of violations of human rights are results of problems in society. These problems are normally reflecting a combination of economic, social, political, cultural and historical circumstances. Therefore, the first step is to identify the causes of the problem. Without a reasonable consensus on causality, there is not likely to be any consensus on interventions. A conceptual framework of causality helps to organize and cluster the multiple causes into immediate, underlying or basic causes; to ask the right questions, so that all main contributing factors are identified; and to convince partners to explore specific underlying or basic causes that they earlier may have been reluctant to discuss. It is indeed true that “you find what you look for”; a clear conceptual framework helps to identify what to look for.²²

The causality analysis will result in a list of rights that are either being violated or at risk of being violated, together with the major causes of these violations. In addition this analysis will identify likely claim-holders and duty-bearers for each right selected.

Step 2: Pattern analysis

Pattern analysis is a means to understand the relationships between claim-holders and duty-bearers. As discussed earlier, human rights represent relationships between claim-holders (subjects) and duty-bearers (objects) in a specific claim-duty relationship. These relationships between claim-holders and duty-bearers form a pattern that links individuals, groups, institutions and communities to each other and to higher levels of society.

NOTE

21. UNDP (2003); Poverty Reduction and Human Rights. Practice Note New York, March 2003; UNDP (2005); Human Rights in UNDP. Practice Note, UNDP, New York, April 2005; UNDP (2006), Applying a Human Rights-Based Approach to Development Cooperation and Programming; A UNDP Capacity Development Resource, Bureau for Development Policy, UNDP, September 2006; OHCHR (2004), Human Rights and Poverty Reduction: A Conceptual Framework, New York and Geneva, United Nations, 2004; UNICEF (1998), Guidelines for Human Rights-Based Programming Approach. Executive Directive 1998-004; UNFPA (2004), Rights into Action; UNFPA implements Rights-Based Approach; UNFPA, New York, 2004; UNESCO and UNICEF (2007), A Human Rights-Based Approach to Education for All, WHO (2006), Health and Human Rights: Draft Work programme 2006/2007, WHO, Department of Ethics, Trade, Human Rights and Health Law; and FAO (1998); The Right to Food in Theory and Practice, Rome 1998.

22. Kuhn, T. (1962), The structure of Scientific Revolutions; Chicago: Chicago Univ. Press

Step 3:

Capacity gap analysis

After the key claim-duty relationships for a specific right have been identified, the next step is to analyze why the right is not realized or at risk of not being realized. A basic assumption underlying this is that rights are not realized primarily because claim-holders lack the capacity to claim their rights, and/or duty-bearers lack the capacity to meet their duties. Capacity development is relevant for any of the actors identified in the Pattern Analysis as claim-holder or duty-bearer (individuals, households, communities, formal and non-formal institutions, cities, government institutions, etc.) Most of these actors may have both claims and duties, in relation to different relationships, and therefore need capacity to both claim their rights and fulfill their duties. For example a school teacher has claims on the Ministry of Education and duties to the school children.

“Capacity” includes the following components:

- (1) **Responsibility, motivation, commitment and leadership**: The actor acknowledges that something should be done;
- (2) **Authority and Power**: This refers to the legitimacy of an action; the actor may take action; that it is permissible to take action. The structure of authority in a society reflects existing power relations;
- (3) **Access and Control of Resources**: If the actor accepts that something should be done and also may do it, it may still be impossible to act because the actor lacks the required resources. It is only when an actor accepts that an action should be taken, may be taken, and can be taken that the actor can be held accountable for not acting. An assessment should therefore be made of the human, economic, and organizational resources available and accessible for

claim-holders to claim their right and duty-bearers to meet their obligations;²³

- (4) **Capability for Rational Decision-making and Learning** requires evidence-based assessment and a logical analysis of the causes of the problem. Actions should be based on decisions informed by the analysis;
- (5) **Communication Capability** includes being able to access information and participate in communication systems crucial for people and organizations as they carry out their individual and collective learning; and
- (6) **Participation**, a human rights principle in itself, is sometimes more important than any of the other types of capacity. Duty-bearers have to discuss and agree on how duties can most effectively be shared. The dialogue should also involve claim-holders, who should be encouraged and learn how to claim their rights.

NOTE

23. For a more detailed description, with example, see, Jonsson, U. (2003), Human Rights Approach to Development Programming, UNICEF, ESARO, Nairobi, Kenya

Step 4:

Identification of and Assessment of Priority Actions

For each specific claim-duty relationship, the most important interventions should be identified to reduce or close the capacity gaps of the claim-holders and of the duty-bearers. Priority actions are then identified that are most likely to contribute to reduce or close each of these capacity gaps by improving or increasing responsibility, authority, resources, and decision-making and communication capabilities of claim-holders and duty-bearers.

Identified ‘candidate’ priority actions can most often be organized in a **Log Frame structure of Inputs – Outputs – Outcomes – Impact**, according to the common concept of ‘Result-Based Management’. The analysis moves ‘backwards’ from a defined or desirable impact to the required outcomes to the required outputs, and finally from the required outputs to the required inputs.

Step 5:

Assessment of selected processes

Such a Log Frame chain reflects a **process**, earlier described in the outcome/process construct of development, where the **desirable outcome** may be any of the outputs, outcomes or impacts. Each of these “desirable outcomes” should be assessed from how well they represent codified **human rights standards**, in a human rights treaty ratified by the country. Each process, on the other hand, should also be assessed from how well they reflect or “integrate” relevant **human rights principles**.

Step 6:

Programme design

The priority actions may be clustered into specific projects with clear objectives, and projects may be clustered into programmes with similarly clear objectives. Activities can be clustered, or aggregated, according to the level of society in which claim-holders and duty-bearers operate. At each level some activities will aim at developing capacities of individuals and groups as claim-holders, while others will aim at developing capacities of individuals and groups as duty-bearers. Some activities will do both-sometimes even in relation to more than one right.

1.

Human rights are very different from human needs. Needs do normally not have any 'correlative' duty, while rights have. The state is most often the ultimate duty-bearer, but there are also non-state duty-bearers.

2.

While most development approaches focus on outcomes only, in a HRBA 'development' is re-structured into 'process' and 'outcome', which facilitates both the identification of priority actions and monitoring.

3.

A human rights relationship between a claim-holder (subject) and a duty-bearer (object) often reflects unequal power relations, which may have far-reaching implications not only for accountability, but also for participation, equality and indivisibility.

4.

A HRBA facilitates the identification and monitoring of the accountability. Accountabilities should be established by setting human rights-based criteria (standards and principles) for service provision and government institutions practices. The state should be held accountable for meeting the obligations to respect, protect and fulfill all the human rights enshrined in the relevant treaties ratified by the state.

5.

Both outcome and process should be included in monitoring and evaluation of policies and programmes. The value of any monitoring system is determined by the degree to which it provides information that is being used for improved decision making.

6.

There is an international human rights monitoring system in place, with obligatory regular reporting by ratifying states to the Treaty Monitoring Bodies in Geneva that after review issues [Concluding Observations](#). These observations, together with any reports from Special Rapporteurs, should be used in country level dialogue and policy and programme development.

7.

One of the most common capacity gaps of right-holders is that they are [not aware of their rights](#). A HRBA to Development therefore employs simultaneously top-down advocacy and awareness raising approaches and bottom-up approaches driven by the valid claims or demands of the claim-holders. It is the synergy of these that makes the difference. Civil society organizations can play a very decisive role in this empowerment.



A number of different approaches to integrate, mainstream or apply human rights in development have been proposed. The OECD/DAC GovNet and ODI have played important roles in this work.²⁴ OECD has presented and discussed most of these approaches in a report from 2006.²⁵ Based on the OECD work an effort has been made in this paper to define a slightly better defined set of categories. These are described below.

CATEGORY 1: Lack of any significant reference to human rights

Documents do not make any significant or explicit reference to human rights. In some cases rights are referred to that are not recognized human rights, for example “the right to the city”. In some other cases documents are based on the assumption that human rights that are not codified in national law are not ‘real’ human rights.

CATEGORY 2: Reference to human rights made to reflect a “high moral ground”

Documents reflect an explicit and strong desire to refer to human rights in the introduction and in the conclusions, without any effort to “integrate” human rights or taking any serious “human rights perspective” in the actual main text. The reason of this is often a desire to show a “high moral ground” by referring to human rights, and the incorporation of human rights terminology into traditional development discourse, without any significant discussion of its operationalization.²⁶

CATEGORY 3: Human rights as a cross-cutting issue

Already in 1997 the Secretary General’s UN Reform Agenda strongly promoted human rights as a cross-cutting issue that should be integrated in the work of all agency mechanisms established in the areas of development work. Although the term has been used by many agencies, no agency has so far managed to define “cross-cutting” human rights work in clear normative or operational terms. Category 3 therefore sometimes includes documents that are close to Category 4.

CATEGORY 4: Human rights mainstreaming

“Human Rights Mainstreaming” is the most common approach referred to in development literature. This approach aims at ensuring that human rights are “mainstreamed” in all sectors of existing development interventions (e.g. water, education, and housing). “Mainstreaming” and “integrating” are often used interchangeably, although very seldom clearly defined. Sometimes “mainstreaming” of human rights includes recognition of human rights principles in the design and the implementation of the process of a policy, programme or project, while the desirable outcome represents a recognized human rights standard. This brings such papers close to Category 5.

CATEGORY 5: A Human Rights-Based Approach (HRBA)

Based on the UN Common Understanding of a HRBA, the practical and necessary key criteria that are specific, unique and very useful in how a HRBA should be used in practice are listed below:

NOTE

24. Piron, L.-H. and T. O’Neil (2005), A Synthesis and Analysis of Donor Experiences with Human Rights-Based Approaches to Development and Integrating Human Rights into Development Programming, ODI, August 2005; and OECD/DAC (2007), DAC Action-Oriented Policy Paper on Human Rights and Development, 2007

25. OECD (2006); Integrating Human Rights into Development; Donor approaches, experiences and challenges; OECD, The Development Division

26. Uvin, P. (2002); On High Moral Ground: The Incorporation of Human Rights by the Development Enterprise: The Fletcher Journal of Development Studies; Vol. XVII

1.

An analysis of the problem should be undertaken in order to identify (1) which human rights (ratified by the country) are primarily affected, and (2) which are the major immediate, underlying, and basic (structural) causes of the non-realization of each of these rights. (Causality Analysis)

2.

Based on the causality analysis, identify important claim-holders and their valid claims on duty-bearers, and for each duty-bearers the correlative duties or obligations to claim-holders. (Pattern Analysis)

3.

For each human right, assess the capacity gaps of right-holders for not claiming their rights and the capacity gaps of duty-bearers for not meeting their duties. (Capacity Gap Analysis)

4.

Design strategies, programmes and projects to reduce or eliminate these capacity gaps, such that there is accelerated realization of the selected rights. (Plan of Action)

5.

Programmes should explicitly reflect both the outcome and the process dimension of development, with the outcome reflecting human rights standards and the process adhering to relevant human rights principles.

6.

Programmes should monitor and evaluate both outcomes and processes guided by human rights standards and principles.

7.

Programing should be informed by the recommendations of international human rights bodies and mechanisms.

→ Assessment of UN-Habitat Publications

During the last 25 years a number of approaches to urbanization and city development have been proposed, applied and replaced each other. Some reflect a more explicit ideological position while others are mainly technical. Some make explicit references to human rights, human rights mainstreaming, and even HRBA, while others make no such reference.

In a review of more than one hundred documents prepared by UN-Habitat during the last fifteen years, the way and degree to which each document had adopted any type of human rights orientation was made and categorized in accordance with the proposed five categories of “human rights approaches to development”. The result is shown in Appendix 1.

It should be noted that in the adopted UN-Habitat Strategic Plan for 2014-2019, human rights are selected as one of the four proposed crosscutting issues, together with gender, youth and climate change, derived from within the context of advancing the goals and mandate of UN-Habitat.²⁷ All cross-cutting issues will be mainstreamed throughout all focus areas, which would mean some kind of adoption of a “human rights mainstreaming approach” (Category 4). However, in a report by the Executive Director to the Governing Council, the full adoption of a Human Rights-Based Approach (HRBA) by UN-Habitat is strongly recommended (Category 5).²⁸

NOTE

27. UN-Habitat (2013); Report on the draft strategic plan 2014-2019 of the United Nations Human Settlements Programme; Governing Council 2013; HSP/GC/24/5/Add.2

28. UN-Habitat (2013); UN-Habitat commitment to the human rights-based approach to development; Activities of the United Nations Human Settlements Programme; Report of the Executive Director; Addendum; 11 February 2013

Approaches to Urbanization and Urban Development in a Human Rights Perspective

Over the last twenty years a number of “ideal” cities have been defined and promoted, each given an attractive name, including [inclusive, sustainable, resilient, prosperous, green, or youth, women, or child-friendly](#). Some of these attributes, like resilient, prosperous or green normally are limited to qualify the city, while others in addition are also used to characterize the urbanization process, like inclusive and sustainable. Some of these attributes are in themselves human rights principles, for example inclusive.

The most important of these approaches will be described and an assessment made of the way in which human rights have been addressed, integrated, mainstreamed, or adopted. Focus will be on the development during the last fifteen years. [The Right to the City](#)

The French sociologist and philosopher Lefebvre originally proposed “The Right to the City” as a new concept in 1968 as a contribution to the ongoing students’ revolt in Europe.²⁹ Lefebvre emphasized that urbanization primarily aimed at absorbing the surplus production of capitalism, resulting in a serious “urban divide” between people living in poverty and people who are rich. He therefore promoted an “urban revolution”, focusing on political and class struggle to stop that urbanization continued to be central to the survival of capitalism. He emphasized the right to the city as a whole, rather than to specific rights in the city.

Pursuing a slightly less revolutionary approach than Lefebvre, Harvey suggests that the “right to the city” should mean the right to command the whole urban process.³⁰ In this sense he reflects the idea proposed in this paper of reconstructing reality in an inclusive and sustainable city as a desirable outcome and a process of urbanization leading to this outcome.

“[The World Charter on the Right to the City](#), agreed upon at the [World Social Forums](#) in 2004 and 2005, operationalized the concept and emphasized the principles of sustainability, democracy, equity, and social justice.³¹ The aim was to “build a sustainable model of society and urban life, based on the principles of solidarity, freedom, equity, dignity, and social justice, and founded in respect for different urban cultures and balance between the urban and the rural”.³²

Görgens and van Donk are clearly aware of the need to address both the outcome (the city) and the process (urbanization), when stating, “the Right to the City ... not only entitles urban residents to new (and/or reinforces established) rights but also implies a fundamental rethinking of the responsibilities of the different stakeholders in processes of city-making.”³³

It is highly questionable whether the original concept of the Right to the City qualifies as a human rights concept at all. The rejection of the important role of the nation

state, and therefore the rejection of the State as the key duty-bearer implies a rejection of International Human Rights Law. As concluded by Purcell, “It is not part of a human rights regime, but rather an approach for urban change.³⁴ Lefebvre admits, “The concept of the [right to the city](#) is based on the UN UDHR, but the concept does not form part of International Human Rights Law. The [right to the city](#) is a vehicle for urban change”.

However, this does not in any way mean that a “city” cannot be a “non-state duty-bearer”. As a matter of fact the city is most often the most important duty-bearer and sometimes also a key claim-holder on the State. [Rights in the City](#).

In December 2011, United Cities and Local Governments adopted [The Global Charter-Agenda for Human Rights in The City](#), with the aim “to promote and strengthen the human rights, individual and collective rights, of all the inhabitants of all cities in the world. The dignity of every human being, a key aspect of the realization of an individual’s human rights, is strongly emphasized.³⁵

NOTE

29. Lefebvre, H. (2003), *The Urban Revolution*; Minneapolis 2003

30. Harvey, D. (2008), *The Right to the City*; *New Left Review* 53, September-October 2008

31. UN-Habitat et al. (2005); *International Public Debates; Urban Policies and the Right to the City* March and September 2005; and Brown, A. and A. Kristiansen (2009); *Urban Policies and the Right to the City: Rights, responsibilities and citizenship*; UN-Habitat, UNESCO and Management of Social Transformations

32. *The World Social Forum* (2005); *World Charter for the Right to the City*; Barcelona; September 2005; p.1

33. Görgens, T and M. van Donk (2011); *From basic needs towards socio-spatial transformation: coming to grips with the ‘Right to the City’ for the urban poor in South Africa*; Isandla Institute, Cape Town; p.17

34. Purcell, M. (2002); *Excavating Lefebvre: The right to the city and its urban politics of the inhabitant*; *GeoJournal* 58: 99–108, 2002.

35. *Committee on Social Inclusion, Participatory Democracy and Human Rights* (2011); *Global Charter – Agenda for Human Rights in The City*; adopted by United Cities and Local Governments (CGLU), Florence, 11 December 2011

The [Global Charter-Agenda](#) aims at constructing a new framework for the implementation of human rights in the city. It does not attempt to create any new human rights, but facilitate the construction of [inclusive cities](#). The language is very different from the ideologically influenced language common in the earlier documents on the Right to the City.

It is stated that all city habitants have the right to participate, the right to available spaces and resources to be active citizens, and that “The city offers its inhabitants all available means to exercise their rights”, ... and that “City inhabitants have the duty to respect the rights and dignity of others”. The [Agenda](#) reflects an adoption of human rights, including an awareness of claim-duty relationships. It is trying to explicitly include almost all imaginable civil, cultural, economic, political and social rights, already enshrined in the ICCPR and ICESCR.

The conclusion must be that the Global Charter Agenda falls into the category of human rights mainstreaming (Category 4). There is, however, no reference to or inclusion of a HRBA as recommended by the UN Common Understanding.

Through the Human Rights Cities initiative, The Peoples Movement for Human Rights Learning (PDHRE) promotes the Rights in the City approach by facilitating learning about human rights by all city inhabitants, based on the idea that “most people around the world do not know of the existence of international human rights”.³⁶

→ Inclusive Cities

The World Summit for Social Development (Copenhagen 1995) defined an inclusive society as:

“A society for all, in which every individual, each with rights and responsibilities, has an active role to play. An inclusive society is based on the fundamental values of equity, equality, social justice, and human dignity and rights and freedoms, as well as on the principles of embracing diversity.”

NOTE

36. UN-Habitat, PDHRE and Harvard School of Public Health (2008); Human Rights Cities: Civic Engagement for Societal Development

In 2002 UN-Habitat launched the [Global Campaign on Urban Governance](#) promoting the concept of an [inclusive city](#), based on the assumption that “good governance depends largely on the degree to which it delivers on the promise of human rights”.³⁷

In September 2007 an UN-DESA Expert Group Meeting, organized in collaboration with UNESCO and UN-Habitat, agreed on an improved conceptualization of [social inclusion](#). They recommended some crucial elements for the creation of an [inclusive city](#), including some with explicit human rights reference, for example respect for the rights, dignity and privileges of every individual of the society, espousing and ensuring their responsibilities”.³⁸

The State of the World’s Cities Report 2010/2011 emphasized that if the four dimensions of the inclusive city – [social, political, economic and cultural](#) – must be turned

from a mere conceptual paradigm into reality, they must be implemented within a human rights-based framework (social, political/civil, economic and cultural rights)³⁹. It is important to appreciate that the concept of “inclusion” in itself is a human rights concept; a [human rights principle](#). This means that the concept of an ‘inclusive city’ fully integrates or mainstreams a human rights principle (Category 4).

Approaches like The Right to the City, Rights in the City and Inclusive Cities have been important in the work with the realization of the Right to Adequate Housing including the prohibition of Forced Evictions. Already in 2005 UN-Habitat established [The Advisory Group on Forced Evictions](#) (AGFE), whose members participated in the assessment of several serious eviction cases in different parts of the world.⁴⁰ The Group worked from a solid human rights base, which contributed to a better understanding of the need for UN-Habitat to address the serious situation in slum areas.⁴¹

→ Prosperous Cities

The World Urban Forum 6, held in Naples in 2012, focused on the ‘Urban Future’. Emerging issues and key lessons from this event informed the work programme for the biennium 2014-2015, which urged that the “[prosperity of cities](#)” concept should go beyond the economic dimension, and should include other vital dimensions that contribute to the quality of life of urban dwellers.

The focus of the State of the World’s Cities 2012/2013 was prosperity as a new concept to replace “economic growth”⁴². In order to achieve this, the concept of [urban prosperity](#) would have to be re-defined and understood in a much broader sense than ‘economic prosperity’. A city is only prosperous to the extent that poverty and inequalities are minimal. No city can claim to be prosperous when large segments of the population live in abject poverty and deprivation. This involves reducing the incidence of slums and new forms of poverty.

The report describes indexes measuring the “level of prosperity” of cities, including [The City Prosperity Index](#), introduced by UN-Habitat, based on five dimensions: (1) productivity, (2) infrastructures, (3) quality of life, (4) equity, and (5) environmental sustainability. Surprisingly, the ‘level of human rights realization’ is not included as one of the dimensions of ‘prosperity’.

NOTE

37. UN Human Settlements Programme (UN Habitat) (2002); International Legal Instruments Addressing Good Governance; United Nations 2002
38. UNDESA (2007): Creating an Inclusive Society: Practical Strategies to Promote Social Integration: 23 May – 20 June 2007
39. UN-Habitat (2010); The State of the World’s Cities Report 2010/2011
40. UN-Habitat (2007); Forced Evictions- Towards Solutions? Second Report of the Advisory Group on Forced Evictions to the Executive Director of UN-HABITAT, Nairobi
41. UN-Habitat (2012), Making Slums History; Conference Report from the International Conference, Rabat, Morocco, 26-29 November 2012
42. UN-Habitat (2012), State of the World’s Cities 2012/2013: Prosperity of Cities. Nairobi, 2012

The concept of “Harmonious Cities” was presented and discussed in the State of the World’s Cities Report 2008/2009.⁴³ This concept was broadened and elaborated in the ‘Cities for Life’ concept at the World Urban Forum in 2014, which focused on the rapidly increasing inequalities in the world, both at the global and the country level.

The “Cities for Life” concept is much stronger linked up with “equity” than with “equality”. The meaning of [equality](#) and [equity](#) are correctly defined, although not always correctly used. The paper explicitly states that “equity” is the more useful of the two concepts. As a concept “Cities for Life” promotes the idea of “good living”. It was recommended that the New Urban Agenda be solidly based on equity, justice and human rights, without any further elaboration of what type of human rights approach.

NOTE

43. UN-Habitat (2008); State of the World’s Cities Report 2008/2009



The strong gender emphasis in the [Habitat Agenda](#) was to a large extent the result of the lobbying by the Huairou Commission, the global coalition of “grassroots women” and their networks, established during the [Fourth World Conference on Women in Beijing](#), 1995.⁴⁴

Already in 2003, the UN-Habitat Governing Council adopted a resolution which addressed women’s roles and rights in human settlements development and slum upgrading.⁴⁵

In a UN-Habitat co-authored document from 2011, the concept of a [Safe City for Women and Girls](#) was launched.⁴⁶ The proposed definition was very human rights relevant, stating that a [Safe City](#) should be a city: [\[1\]](#) where women and girls are not discriminated against and where their economic, social, political, and cultural rights are guaranteed; and [\[2\]](#) where the state guarantees the human rights of all people without excluding women and girls.

In UN-Habitat report on [Gender and Urban Planning](#) (2012) conceptual and practical methodologies were proposed for incorporating gender perspectives in human settlements planning, development and evaluation, including the development of indicators.⁴⁷ The right to adequate housing is seen an integral part of women’s human rights. The report is a good example of a human rights “mainstreaming approach” (Category 5).

In an evaluation of gender mainstreaming in UN-Habitat (2011) the lack of consistency within UN-Habitat’s normative work on pro-poor land and housing, with regards to gender equality was criticized. It concluded, “Whilst texts specifically on women’s rights promote equality of access with a view to challenging power relations between men and women in the public and pri-

vate spheres, other more generic texts are not quite as progressive”.⁴⁸ Clearly a HRBA Pattern Analysis would make it much easier to address power relations and structures in society.

At the 2013 UN-Habitat Governing Council Meeting a number of reports and resolutions were presented on “gender equality” and “mainstreaming of a gender perspective”, but often without any clear and explicit reference to or discussion of women’s human rights.

In a resolution on gender equality UN-Habitat reaffirms the need to continue to integrate a gender perspective in all its work by recognizing gender equality as a ‘cross-cutting’ issue and to establish an Advisory Group on Gender Issues.⁴⁹ It is interesting to note that in the proposed strategy not a single reference is made to human rights in general or to women’s rights in particular.

NOTE

⁴⁴. Freeman, J. (1996); The Real Story of Beijing; Off Our Backs, Vol. 26, No. 3, March 1996, pp. 1, 8-11, 22-27

⁴⁵. UN-Habitat (2003); Women’s role and rights in human settlements development and slum upgrading; Governing Council, 5 - 9 May 2003, Nairobi, Kenya

⁴⁶. JAGORI and UN-Habitat (2011), Building Safe and Inclusive Cities for Women; Jagori, New Delhi, 2011

⁴⁷. UN-Habitat (2012); Gender and Urban Planning; Issues and Trends

⁴⁸. UN-Habitat (2011); Evaluation of Gender Mainstreaming in UN-HABITAT, February 2011

⁴⁹. UN Habitat (2013); Gender equality and women’s empowerment to contribute to sustainable urban development; HSP/GC/24/L.5; 18 April 2013

When talking about youth and human rights, it is important first of all to recognize that there is no legally binding international treaty (convention) on the “rights of youth”, similar to the ones for the rights of children and the rights of women. However, youth are of course covered by all human rights treaties, and in addition for those younger than 18 years of age also covered by the Convention on the Rights of the Child.

Ansell proposed that in the context of youth-focused development, a rights-based approach should include both a [process](#) that is participatory, inclusive, and multi-sectoral; and an [outcome](#) - the empowerment of young people to achieve their full potential, and the freedom to take up opportunities so that they might achieve their full potential.⁵⁰

The evaluation of the UN-Habitat Youth Programme and Urban Youth Fund (2011) reflects these facts.⁵¹ It is recommended that UN-Habitat works closely with UNICEF on Child-Friendly Cities, and that a rights-based approach be the first building block of a proposed strategy of the Youth Programme for partnership support that incorporates the rights-based principles of Child-Friendly Cities.

In 2012, UN-Habitat published a very thorough report, [Young People’s Participation and Sustainable Development in an Urbanizing World](#), in which a HRBA to Development is promoted, recognizing the important re-structuring of development into [outcome](#) and [process](#). This means that youth is recognized as [actors](#), with potential to change both the urbanization process and the urbanization outcome – the city.⁵²

The report ends with eleven policy recommendations. All these recommendations are correct, important and useful, but they are not seen or defined in any human rights framework. It is clear that the promise of a right-based approach made in the Foreword does not refer to the United Nations’ agreed upon definition of a “human rights-based approach” (HRBA).

The conclusion is that although the document makes a lot of references to different rights in the text, there is no explanation of the meaning of a “human rights-based approach to development”, nor any attempt to use such an approach in the assessment, analysis and formulations of priority actions. Similarly, in the Governance Council Meeting (2013), although a lot of reference is made to a number of youth events the resolution on “Youth and sustainable urban development”, not a single reference is made to human rights.⁵³

The conclusion is that UN-Habitat reports on youth varies a lot in their attention to human rights, ranging from lack of any reference to human rights (Category 1) to the adoption of certain parts of a full HRBA (Category 5)

NOTE

50. Ansell, N. (2010); Human development and rights, presented at the department of geography. Trondheim: Norwegian university of science and technology.

51. UN-Habitat (2011); Evaluation of the UN-HABITAT Youth Programme and Youth Fund; September 2011

52. UN-Habitat (2012); Young People’s Participation and Sustainable Development in an Urbanizing World; UN-Habitat, Nairobi, 2012

53. UN-Habitat (2013); Youth and sustainable urban development; Resolution 24/12, Governing Council, 19 April 2013

Sustainable development, including sustainable urbanization, includes [environmental or ecological sustainability](#), a fact that has been recognized and debated for a long time. The debate has created a divide between those who continue to promote a [Brown Agenda](#) and those who argue strongly for the adoption of a new [Green Agenda](#).

While the brown agenda is seen as focusing upon human wellbeing and social justice and the immediate problems at the local level, especially those suffered by low-income groups, the green agenda is concerned with ecosystem protection and the long-term effects of human activity at the regional and global scale.⁵⁴

Some even question the whole idea that a human right to “good environment” should be promoted at all. Such a perspective reflects the idea that human beings are more important than the environment; that “environmental issues are of less importance than the needs of humans”.⁵⁵

A dialogue between the supporters of the green and brown agendas started to emerge through the main

outcomes of the UN Summits in Rio de Janeiro and Istanbul – the environment-focused Agenda 21 and the urban-focused Habitat Agenda. This dialogue has been positive in bringing attention not just to the challenge of promoting “sustainable cities” but also “sustainable urbanization”.

The Future We Want (Rio 2012) also promoted a green economy in the context of sustainable development and poverty eradication as one of the important tools available for achieving sustainable development and that it could provide options for policymaking but should not be a rigid set of rules”.⁵⁶

In conclusion, although publications about a “green economy” seldom explicitly refer to human rights arguments, increasingly the global awareness about the risk of compromising the possibilities in the future to realize human rights has grown strongly. The lack of a set of internationally recognized environmental rights (e.g. a Convention) creates the biggest challenge. More recently many NGOs are increasingly using civil and political rights arguments for a greater attention to the future of environment.

The idea of [sustainable development](#) was first articulated and promoted at the UN Stockholm Conference on Environment and Development in 1972, where the inter-connections between environment and development were finally brought together under one concept.⁵⁷

The Brundtland Commission’s Report on global environment and development in 1987 later launched “sustainability” as a concept internationally.⁵⁸ The Commission defined “sustainable development”, as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs”.

“Sustainable development” soon became a priority for the work of United Nations, particularly after the UN Conference on Environment and Development (UNCED), in 1992. The United Nations Commission on Sustainable Development (CSD) was established in December 1992 to oversee the implementation of the Agenda, the global agreement reached in Rio. After the Rio Earth Summit the definition of ‘sustainability’ was broadened to include four dimensions, [\(1\)](#) economic sustainability; [\(2\)](#) social sustainability; [\(3\)](#) ecological sustainability and [\(4\)](#) political sustainability.⁵⁹

In August 2002 UN-Habitat compiled a report for discussion at the WSSD in Johannesburg.⁶⁰ A set of eleven proposals was made, none of them, however, referring to human rights. The report as a whole actually never mentions human rights.

In a Theme Paper to the 2011 Governing Council “sustainable urban development” was defined as;

NOTE

54. Allen, A. and N. You (eds) (2002) Sustainable Urbanization: Bridging the 9. Green and Brown Agendas, UCL Development Planning Unit in collaboration with DFID and UN-Habitat, London
55. Horn, L. (2013); Reframing Human Rights in Sustainable Development; J. Australian Law Teachers Association, Vol.6; No. 1 and 2
56. UN (2012); The United Nations Conference on Sustainable Development; Rio de Janeiro, 20-22 June 2012
57. UN (1972); Declaration of the United Nations Conference on the Human Environment; The United Nations Conference on the Human Environment, Stockholm from 5 to 16 June 1972
58. Brundtland Commission (1987); Our Common Future; Oxford University Press: Oxford
59. Allen, A. (2009); Sustainable cities or sustainable urbanization? Summer 2009 edition of ‘palette’ UCL Journal of Sustainable Cities
60. UN-Habitat (2002); Coalition for Sustainable Urbanization; Partnership Commitments for Implementing Agenda 21; UN-Habitat, August 2002



“The spatial transformation of the urban environment and the quality of life of its inhabitants – through participatory, equitable, accountable and effective planning, management and governance processes and systems – making neighborhoods, towns and cities more environmentally sound, economically productive and socially inclusive for present and future generations.”⁶¹

NOTE

⁶¹. UN-Habitat (2011); Dialogue on the special theme for the twenty-third session of the Governing Council: sustainable urban development through expanding equitable access to land, housing, basic services and infrastructure; Theme paper by the Executive Director, 28 January 2011. Governing Council 2011, April 2011

Twenty years after the important 1992 Rio Declaration on Environment and Development (Agenda 21), the UN Conference on Sustainable Development (Rio+20) took place in 2012.⁶² The Rio Conference promoted sustainable development in all its dimensions. However, there was no effort to explain the relation between sustainable development as a “process”, and the desirable sustainability of cities as the “outcome”.

The outcome document from the conference, [The Future We Want](#), reaffirms the importance of the Bill of Rights and all human rights treatises within International Human Rights Law. However, there were many observers who were critical of the low interest shown in human rights.⁶³ This is in sharp contrast to the open letter proposal by the OHCHR before the Conference, that “The Rio+20 Outcome document should integrate specific references to all human rights, which are interdependent and mutually reinforcing in addition to the right to food and the right to safe and clean water”.⁶⁴

As recommended by the Rio+20 Conference, ECOSOC organized in May 2014 a separate conference with a focus on urbanization and sustainable development.⁶⁵ The aim was to agree on how to integrate the three dimensions of sustainable development – economic, social and environmental.

While existing human rights treaties covers the two first dimensions, the environmental aspects are not covered. Efforts are being made to establish “environmental (ecological) rights”.⁶⁶ It is noteworthy that the aspect of ‘political sustainability’ seems to have disappeared in the discussion of [Sustainable Development](#). This deletion is as remarkable as detrimental in the sense that the human rights aspects of and relation with sustainable development is primarily related to “political sustainability”.

Some additional controversy surrounds the definition of sustainable development, resulting in a series of parallel but distinct discourses around sustainability. The increased attention to environmental sustainability and issues of global environmental justice has been a major reason for this confusion.⁶⁷ The [Habitat International Coalition](#) (HIC) is critical of the concept “sustainable development”, because of its questionable meaning, appearing to be true, but not necessarily so.⁶⁸ This is a very important position, because it would imply that “sustainable” development does not necessarily lead to or require “human rights-based” development.

In conclusion, the UN-Habitat documentation reflects the desire to show a “high moral ground” by referring to human rights, and the incorporation of human rights terminology into traditional development discourse, without any significant change in reality or guidance on how to apply a human rights-based approach (Category 2).

However, this is likely to change as a result of the proposal to base the “New Urban Agenda” on a sustainable urbanization/sustainable cities model, to be discussed at the Habitat III in 2016.

NOTE

⁶². UN (2012); The United Nations Conference on Sustainable Development; Rio de Janeiro, 20-22 June 2012

⁶³. Egeland, J. and J. Evans ([2012]; Rio+20 missed an opportunity to bolster human rights; *The Guardian*, 27 June, 2012

⁶⁴. OHCHR (2012); If Rio+20 is to deliver, accountability must be at its heart; An Open Letter from Special Procedures mandate-holders of the Human Rights Council to States negotiating the Outcome Document of the Rio+20 Summit

⁶⁵. ECOSOC (2014); 2014 Integration Segment; 27-29 May 2014

⁶⁶. UN Human Rights Council (2011); Human Rights and the Environment; Resolution 16/11; 12 April 2011; and Resolution 19, 20 March 2012; and Humphreys, S. (Ed.) (2009) *Human Rights and Climate Change*, Cambridge University Press

⁶⁷. Redclift, M. (2005); *Sustainable Development (1987-2005): An Oxymoron Comes of Age*; Sustainable Development 212-227 (2005)

⁶⁸. HIC (2014); HIC Expectations of Habitat III; *Land Times*; Issue 9, May 2014

3

UN-Habitat and Human Rights

The Period 1976-2004

- HABITAT I (Vancouver 1976)
- The Strategy for Shelter to the Year 2000 (1988)
- HABITAT II (Istanbul 1996)

Current UN-Habitat Position on Human Rights and Urbanization

- UN-Habitat In-House Discussion (2011-2013)
- The UN-Habitat Governing Councils (April 2013 and April 2015)
- Work Programme and Budget for the Biennium 2014-2015 and the UN-Habitat Strategic Plan 2014-2019
- The 2030 Sustainable Development Agenda and the SDGs
- The United Nations preparation of HABITAT III Conference

The Period 1976-2004

→ HABITAT I (Vancouver 1976)

The First United Nations Conference on Human Settlements, Habitat I, took place in Vancouver in 1976. The focus of the Conference was on the need to reduce the increasing rural – urban disparities. The **Vancouver Declaration on Human Settlements** outlined principles and recommendations for national actions, clearly reflecting the perception that urbanization was a challenge in need of control.⁶⁹

Except for the right to adequate shelter, the Declaration is needs-oriented without much reference to human rights. However, in dealing with the right to adequate shelter the human rights relationships between the Government as a duty-bearer and the people as right-holders is explicitly recognized.

“Adequate shelter and services are basic human rights, which places an obligation on Governments to ensure their attainment by all people, beginning with direct assistance to the least advantaged through guided programmes of self-help and community action.” (Para. 8)

→ The Strategy for Shelter to the Year 2000 (1988)

In 1988 the UN General Assembly adopted the **Strategy for Shelter to the Year 2000**.⁷⁰ Guidelines for steps to be taken by Governments were outlined. The objectives and principles of the strategy included enabling policies; women, as income-earners, home-makers and heads of households; shelter and development; and the concept of sustainable development. The Strategy document as well as the Mid-Term Review in 1995 ⁷¹ does not mention human rights.

However, 1995, the year before the Habitat Agenda, the Preparatory Committee for Habitat II issued a policy guideline for “the future of human settlements”.⁷² The document mentions “housing rights” once, refers to “needs and rights” in another place, but never refers to **human rights**. Most surprisingly, the document does not refer to human rights in the carefully outlined “Ten good policies that will make a difference for sustainable human settlements”. Even the final document did not refer to human rights or any human rights approach.⁷³

NOTE

69. Habitat (1976), The Vancouver Declaration on Human Settlement; Vancouver, Canada, 31 May-11 June 1976

70. United Nations General Assembly (1988), Global Strategy for Shelter to the Year 2000 General Assembly; 20 December 1988; A/RES/43/181

71. United Nations (1995); Mid-term Review of the Global Strategy for Shelter to the Year 2000; Report of the Secretary-General of the Conference and Executive Director to the Preparatory committee for Habitat II, Nairobi, 24 April-5 May 1995

72. United Nations General Assembly (1995); The Future of Human Settlements; Good Policy can make a Difference; 15 November 1995; A/CONF.165/PC.3/3/Add.1

73. Commission on Human Settlements (1999); Implementation of the Habitat Agenda

A great change came with the Second United Nations Conference on Human Settlements (Habitat II) that took place in Istanbul, 1996. The Conference report, *The Habitat Agenda Goals and Principles, Commitments and the Global Plan of Action (The Habitat Agenda)*, outlined in detail priorities and actions, including over 100 commitments and 600 recommendations.⁷⁴

The separation of the two purposes of HABITAT II, “Adequate shelter for all” and “Sustainable human settlements development” in an urbanizing world, can be seen as an early reflection of an Outcome/Process re-construction of “adequate shelter for all” as the de-

sirable outcome and ‘sustainable human settlements development’ as the selected process.

Sustainable development provides a strong basis for the Habitat Agenda. It is assumed that “sustainable development” requires economic growth, social development and environmental protection, a position, originally formulated in Agenda 21 and which has survived until today.

The Agenda makes reference to human rights in more than twenty Articles, often with a more explicit reference to the right to adequate housing, but also in very broad terms as below.

“We reaffirm and are guided by the purposes and principles of the Charter of the United Nations and we reaffirm our commitment to ensuring the full realization of human rights” (Art.26)

A few years later, in 2001, *The Istanbul Declaration on Human Settlements* was adopted with a clear position on the right to adequate housing.⁷⁵ The Declaration emphasizes peace, justice and democracy, reflecting the priorities in the many earlier global conferences during the 1990s. The first reference to human rights is in paragraph 6, where it is stated;

“We shall intensify our efforts to eradicate poverty and discrimination, to promote and protect all human rights and fundamental freedoms for all, and to provide for basic needs, such as education, nutrition and life-span health care services, and, especially, adequate shelter for all”.

NOTE

74. UN (1996); United Nations Conference on Human Settlements (HABITAT II); Istanbul (Turkey) 3-14 June 1996 A/CONF.165/14 7 August 1996

75. United Nations Centre for Human Settlements (Habitat); *The Habitat Istanbul Declaration on Human Settlements*; General Assembly, Special Session for an overall review and appraisal of the implementation of the Habitat Agenda, New York, 6-8 June 2001

It is noteworthy that education, nutrition and health are seen as ‘basic needs’ and not as human rights.

Several meetings have been organized to review the implementation of the Habitat Agenda. In June 2001, the UNGA held a special session to review the implementation of the Habitat agenda worldwide.⁷⁶ One of the key messages was that “urban development” and “rural development” are strongly interdependent and should always be addressed at the same time. As much as there is some recognition of “rights” or even “human rights”, there is no discussion or recommendation about any [human rights mainstreaming or adoption of any human rights approaches](#). In fact, given the large gap between the strong general commitments to human rights and the low attention to using human rights in practice reflects the category of “rhetorical repackaging” (Category 2).

In 2002 the UN General Assembly adopted Resolutions on the implementation of the Habitat Agenda,⁷⁷ and how to strengthen the UNCHS (Habitat).⁷⁸ Not a single reference to human rights is made, which is rather surprising as the efforts of mainstreaming human rights was intensive in many UN Agencies during that time as a result of the UN Secretary General’s launch of the UN Reform in 1997.

During the last ten years urban development approaches have changed in many different ways. These changes have often been results of the following changes.

First, the transformation of the city from a platform to a vector force, reflecting a change from looking at the city as a place, to recognizing the city as a force for change at both local and global levels. This force is described as [The Transformative Power of Urbanization](#).⁷⁹

Second, greater emphasis is now being placed on sustainable urban development within the overall context of sustainable development. Urbanization is the process and the City is the outcome. The fundamental basis for the new interest in urbanization is that, urbanization and the city itself are increasingly seen as an asset and a solution. Urbanization is a force of its own.

Consequently, a Human Rights-Based Approach is increasingly being promoted within UN-Habitat, reflected in the Governing Council’s request that the Executive Director to mainstream human rights within the context of advancing the goals and mandate of the United Nations Human Settlements Programme, as set out in the Istanbul Declaration on Human Settlements and the Habitat Agenda, 2 in line with its strategic plan for 2014–2019, which states that all cross-cutting issues will be mainstreamed throughout its seven focus areas.

NOTE

76. UN-Habitat (2001); Declaration on Cities and Other Human Settlements in the New Millennium; A/RES/S-25/2; 16 August 2001

77. UNGA (2002); Special session of the GA for an overall review and appraisal of the implementation of the outcome of the United Nations Conference on Human Settlements (Habitat II)

78. UNGA (2002); Strengthening the mandate and status of the Commission on Human Settlements and the status, role and functions of the United Nations Centre for Human Settlements (Habitat); Resolution adopted by the General Assembly, 26 February 2002; A/RES/56/206

79. López, M. E, and H. Mohamed (2013); Towards Habitat III and the Re-Thinking of the City, UN-Habitat.

Current UN-Habitat Position on Human Rights and Urbanization

→ UN-Habitat In-House Discussion (2011-2013)

The re-thinking of the potentially positive role of human rights-based urbanization triggered an intensive discussion within UN-Habitat. It had been increasingly recognized that although many experiences with proposed integration of human rights existed, many of them only meant that the human rights language had been used, with little application and impact on the intended project beneficiaries (Category 2).

The discussion was triggered and supported by the UN-Habitat Executive Director's desire to return to the centrality of urban planning for [sustainable urbanization](#). This would benefit from the adoption of a human rights-based approach, including directing in a 2012 memo that UN-Habitat adopts human rights consider-

ations in their programme and project design and implementation.

The internal meetings and debates that took place in 2011-2012 resulted in a proposal that UN-Habitat should launch a strong commitment to a human rights-based approach to sustainable urban development at the Governing Council in April 2013".⁸⁰

In early 2013 the Executive Director of UN-Habitat elaborated his vision on [sustainable urbanization](#), in which he emphasized the positive correlation between urbanization and development.⁸¹ In order to make this happen he believed in the need for a [paradigm shift – A New Urban Agenda](#).

→ The UN-Habitat Governing Councils (April 2013 and April 2015) ⁸²

The focus of the UN-Habitat Governing Council Meeting in April 2013 was [Sustainable Urban Development: The role of cities in creating improved economic opportunities for all, with special references to youth and gender](#). Many of the reports to the [Governing Council Meeting](#) supported the position that UN-Habitat should adopt a Human Rights-Based Approach as part of the New Urban Agenda.

In a report by the Executive Director to the Governing Council the full adoption of a Human Rights-Based Approach (HRBA) by UN-Habitat is strongly recommended.⁸³ In the document it is recognized that human rights have been endorsed and reaffirmed by the last two Secretary Generals of the UN as "central to the mandate and mission of the United Nations as a whole"; the UN Common Understanding on a Human Rights-Based Approach has been endorsed by almost all UN Agencies, Funds and programmes and many bilateral development agencies; guidance on how to adopt and use a HRBA has been published by several UN agencies, including UN-Habitat. It is explicitly stated that a key advantage of a HRBA is the recognition of claim-holders and correlative duty-bearers, reflecting a genuine HRBA (Category 5).

Many of the resolutions by the Governing Council dealt with highly relevant issues from a human rights perspective, including gender equality, women's empowerment and sustainable development⁸⁴; inclusive national and local housing strategies⁸⁵; sustainable urban development⁸⁶; and youth and sustainable urban development.⁸⁷ However, most of these resolutions do not make much reference to human rights and the few references made refer mainly to a mainstreaming of human rights. In the final high-level debate several representatives welcomed the continuing reorientation of the programmatic focus of UN-Habitat and the emphasis on an urban agenda that was forward-looking and normative and helped to create enabling conditions for sustainable cities, without mentioning human rights.

While many of the input documents strongly recommended the adoption of various forms of a human rights-based approach, the reports adopted by the Governing Council are more silent. In conclusion, there was a difference between the expectations for a stronger support for a human rights-based approach reflected in the in-house dis-

NOTE

80. UN-HABITAT (2013); Is your approach to Sustainable Urban Development rights-based? Debate Summary, 12 March 2013
81. Clos, J. (2013); Sustainable Urbanization: A New Vision: UN-Habitat URBAN VISIONS No.1; Vision for the 24th Governing Council
82. UN-Habitat (2013); Draft Proceedings of the Governing Council of the United Nations Human Settlements Programme at its twenty-fourth session; HSP/GC/24/L.1, 16 April 2013
83. UN-Habitat (2013); Activities of the UN Human Settlements Programme; Addendum: UN-Habitat commitment to the human rights-based approach to development; UN-Habitat Governing Council, 11 February 2013
84. UN-Habitat (2013); Gender equality and women's empowerment to contribute to sustainable urban development, Resolution 24/4; HSP/GC/24/L.5; 18 April 2013
85. UN-Habitat (2013); Inclusive national and local housing strategies to achieve the Global Housing Strategy Paradigm; Resolution 24/9; Governing Council, April 2013
86. UN HBITAT (2013); Promoting sustainable urban development by creating improved economic opportunities for all, with special reference to youth and gender, Resolution 24/11; Governing Council, April 2013
87. UN-Habitat (2013); Youth and sustainable urban development; Resolution 24/12; Governing Council, April 2013

cussion earlier and expressed in the reports to the Council by the Executive Director and the more reduced attention by the Council itself.

Similarly, in the report by the Secretary-General to ECOSOC in May 2013, the conclusions and recommendations from the Governing Council Meeting in April 2013 Meeting was summarized, without making any reference to human rights.⁸⁸

Two years later, in April 2015, the progress made on human rights mainstreaming in UN-Habitat made possible the adoption the UN-Habitat Governing Council Resolution 25/4 (Implementation of the strategic plan for 2014–2019).⁸⁹ For the first time, a specific recognition of the importance of mainstreaming human rights into the work of UN-Habitat was included in one of the Programme’s Governing Council Resolutions, as follows below.

“ The Governing Council] Requests the Executive Director to mainstream human rights within the context of advancing the goals and mandate of the United Nations Human Settlement Programme, as set out in the Istanbul Declaration on Human Settlement and the Habitat Agenda, in line with its strategic plan for 2014-2019, which states that all cross-cutting issues will be mainstreamed throughout its seven focus areas.”

NOTE

⁸⁸. ECOSOC (2013); Coordinated implementation of the Habitat Agenda; E/2013/68, 4 May 2013

⁸⁹. <https://papersmart.unon.org/habitatgc25/sites/papersmart.unon.org/habitatgc25/files/K1501218.pdf>

The formal recognition of human rights in the UN-Habitat resolution is a step up from previous approvals by the UN-Habitat Governing Council for human rights as part of the UN Programme's work plan and budget. The endorsement by the Governing Council lends strong support to the importance of mainstreaming the Human Rights-Based Approach to development cooperation

Mainstreaming of the 2003 UN Human Rights-Based Approach to Development Co-operation within the scope of the programme's mandate will ensure that human rights principles will guide programming in all phases of the programming process. The Human Rights-Based Approach seeks to ensure that projects are providing the best possible outcomes for those they seek to assist, while human rights principles promote community participation and attention to vulnerable groups.

The New Urban Agenda currently focuses on promoting a new urbanization model that contains mechanisms and procedures that protect, respect and promote human rights. It seeks to ensure that both the desirable outcome, the progressive realization of human rights in cities and other human settlements, and the process to achieve this outcome, take account of the content and intent of international human rights instruments. This will ultimately ensure that UN-Habitat continues to contribute to the further realization of human rights in the Post-2015 Agenda as well as towards the formulation of the United Nations New Urban Agenda.

In the [Work Programme and Budget for the Biennium 2014-2015](#) special attention is given to cross-cutting issues such as youth, human rights, partnerships and climate change.⁹⁰ Work on these cross-cutting issues will follow a two-track approach consisting of [mainstreaming](#) and [issue-specific projects](#). Mainstreaming of cross-cutting issues will ensure that these issues are integrated in the work of all sub-programmes" both conceptually and in operationally (Category 4). Issue-specific projects will seek to fill identified gaps in the field and will be located in the appropriate subprogramme.

Like most other UN agencies UN-Habitat has defined its vision and mission for its work in a [Strategic Plan 2014-2019](#).⁹¹ These are:

Vision

UN-Habitat promotes the stronger commitment of national and local governments as well as other relevant stakeholders to work towards the realization of a world with economically productive, socially inclusive and environmentally sustainable cities and other human settlements.

NOTE

90. UN-Habitat (2013); Proposed work programme and budget for the biennium 2014-2015; Report by the Executive Director; Governing Council, 31 January 2013

91. UN-Habitat (2013); Draft strategic plan 2014-2019 of the United Nations Human Settlements Programme; Report of the Executive Director, 31 January 2013

Mission

UN-Habitat, in collaboration with relevant stakeholders and other United Nations entities, supports governments and local authorities, in line with the principle of subsidiarity, to respond positively to the opportunities and challenges of urbanization by providing normative or policy advice and technical assistance on transforming cities and other human settlements into inclusive centers of vibrant economic growth, social progress and environmental safety.

Human rights are not explicitly mentioned in the definitions above, including the Mission Statement. However, in a later chapter on ‘cross-cutting issues’ human rights are included together with seven other issues, derived from within the context of advancing the goals and mandate of UN-Habitat. This reflects the adoption of a ‘Cross-cutting Approach’ (Category 3).

→ The 2030 Sustainable Development Agenda and the SDGs

The Rio+20 outcome document, [The Future We Want](#), sets out a mandate to establish an Open Working Group to develop a set of sustainable development goals for consideration and appropriate action by the General Assembly.⁹² The Rio outcome gave the mandate that the SDGs should be coherent with and integrated into the UN development agenda beyond 2015.

The zero draft received considerable criticism, including from OHCHR, commenting that the draft did not integrate the full range of human rights linked with sustainable development, despite the considerable developments in human rights norms since the 1992 Rio Summit.⁹³ In an Open Letter arguments were made that the United Nations system had been building a collective understanding of human rights and development through a series of key historical moments of international cooperation, and therefore the Rio+20 should “ground global commitments in human rights”.⁹⁴

A very large number of UN system and international bodies have been established in the preparation of the Post-2015 Agenda, including the SDGs (United Nations System Task Team on the Post-2015 United Nations Development Agenda, Secretary-General’s High-level Panel of Eminent Persons on the Post-2015 Development Agenda, Sustainable Development Solutions Network, etc.)

In its report [Realizing the Future We Want for All](#), the United Nations Task Team laid out three principles that should constitute the common underlying elements of a global development agenda post-2015—human rights, equality and sustainability—and the four dimensions of development where progress will be needed—environmental sustainability, peace and security, inclusive economic development and inclusive human development.⁹⁵

The original recommendation from Rio+20 and from a large number of concerned organizations and scholars that the Post-2015 Agenda, with the SDGs, should have an explicit human rights base and orientation, including the adoption of a HRBA, was gradually downplayed. The reason is well explained by Saiz and Balakrishnan (2014).⁹⁶

NOTE

92. United Nations (2012); [The Future We Want](#); Outcome Document from the United Nations Conference on Sustainable Development; Rio de Janeiro, Brazil 20–22 June 2012

93. OHCHR (2012); [If Rio+20 is to deliver, Accountability must be at its heart](#); Background Note: Human Rights Essential Role for Sustainable Development; Special Procedures mandate-holders of the Human Rights Council to States negotiating the Outcome Document of the Rio+20 Summit

94. OHCHR (2012); [An Open Letter from Special Procedures mandate-holders of the Human Rights Council to States negotiating the Outcome Document of the Rio+20 Summit](#)

95. UN (2012); [Realizing the Future We Want for All](#); Report to the Secretary General by the UN System Task team on the Post-2015 UN Development Agenda, New York, June 2012

96. Saiz, I. and R. Balakrishnan (2014); [Transforming the development agenda requires more, not less, attention to human rights](#); Open Global Rights, 15 September 2014

“Human rights have thus become a lightning rod in the geo-political wrangling around the next global development goals. It is for this reason that the draft SDGs contains very few explicit references to human rights, and is conspicuously silent on their role as a universal normative framework for sustainable development. Indeed the OWG Co-Chairs have admitted that they deliberately avoided explicit human rights language in the SDG draft for fear that this would be considered to be too “controversial.”

The OHCHR and the Centre have launched strong criticism for Economic and Social Rights (CESR) regarding the almost complete lack of serious attention to [accountability](#) in the Post-2015 work.⁹⁷ It is argued that accountability from a human rights perspective refers to the relationship of Government policymakers and other [duty bearers](#) to the [rights holders](#) affected by their decisions and actions. Governments are obliged to uphold these principles under international human rights treaties they have already agreed to be bound by. The text reflects well a HRBA to Development (Pattern Analysis, Capacity Gap Analysis, accountability, etc.).⁹⁸

While originally many participants in the massive discussions about the Post- 2015 Development Agenda and the SDGs strongly suggested that human rights should form the fundamental basis for the whole exercise, this has gradually been replaced by a demand to adopt a new [Equity Agenda](#) as basic approach.⁹⁹

UN-Habitat and its partners have for some time been campaigning for an urban SDG to specifically address urban development issues in order to ensure that urban issues are adequately addressed in the Post-2015 Agenda.¹⁰⁰

In May 2013 the Thematic Group on Sustainable Cities recommended a freestanding urban SDG and elaborated in detail.¹⁰¹

In the ‘Proposal by the Open Working Group for Sustainable Development Goals’ (9 July 2014) such a goal was proposed; to “Make cities and human settlements inclusive, safe, resilient and sustainable”, with ten sub-goals. The text does not make any reference to human rights. In the proposed urban SDG, the proposed goal is elaborated in ten points, again without a single reference to human rights.¹⁰²

NOTE

97. OHCHR and CESR (2013); Who will be Accountable? Human Rights and Post-2015 Development Agenda; New York and Geneva, 2013; and CESR (2013); A Matter of Global Justice; Securing human rights in the Post-2015 sustainable development agenda

98. CESR (2013); A Matter of Global Justice; Securing human rights in the Post-2015 sustainable development agenda

99. Save the Children Fund (UK) (2014); Leaving No One Behind; Embedding equity in the post-2015 framework through stepping stone targets; London, 2014; and Watkins, S. (2013); Leaving no-one behind: an equity agenda for the post-2015 goals; Think piece, ODI, UK, October 2013

100. UN-Habitat (2013); Revised Compilation for Sustainable Cities & Human Settlements: Sustainable Development Goals (SDGs) within the Post-2015 Development Agenda; 20 December 2013

101. Sustainable Development Solutions Network, Thematic Group on Sustainable Cities (2013); The Urban Opportunity: Enabling Transformative and Sustainable Development

102. United Nations (2014); Proposal of the Open Working Group for Sustainable development Goals; July 2014

At the 2013 UN-Habitat Governing Council Meeting a strong point was made that the post-2015 development agenda “should be both ambitious and universal and should aim to reduce inequality based on human rights, the rule of law and non-discrimination”.¹⁰³ It was also suggested that the SDGs should reflect the three pillars of the UN Charter, namely, peace and security, development and human rights.

→ The United Nations preparation of HABITAT III Conference

In addition to the work done in the preparation of and recommendations made by the UN-Habitat Governing Council in April 2013, a number of UN bodies have contributed to the preparation of the Habitat III Conference. The enthusiasm and commitment of UN-Habitat and its staff to promote a paradigm shift and create a New Urban Agenda based on human rights was not reflected in the outcome documents of the UN-Habitat. This chapter describes the steps in the UN process from the decision to arrange a Habitat III Conference (2012) to the situation by the end of 2014.

The decision by the UN to convene a third [UN Conference on Housing and Urban Development \(Habitat III\)](#) was taken in March 2012. It was agreed that the focus should be on the implementation of a [New Urban Agenda](#), based on the Habitat Agenda and the more recent UN global conference, in particular those dealing with sustainable development.¹⁰⁴ No reference is made to human rights.

A second UNGA Resolution was issued in March 2013, where the objectives of the Habitat III Conference were clarified.¹⁰⁵

NOTE

103. UN-Habitat (2013); Urbanization and sustainable urban development in the post-2015 development agenda; Resolution 24/10, Governing Council Meeting, 19 April 2013

104. UNGA (2012); Implementation of the outcome of the UN Conference on Human Settlements (Habitat II) and strengthening of the UN Human Settlements Programme (UN-Habitat); GA Resolution 66/207 (14 March 2012)

105. UNGA (2013); Implementation of the outcome of the UN Conference on Human Settlements (Habitat II) and strengthening of the UN Human Settlements Programme (UN-Habitat); GA Resolution 67/216 (20 March 2013)

The objective of the conference will be to secure renewed political commitment for sustainable urban development, assessing accomplishments to date, addressing poverty and identifying and addressing new and emerging challenges, and that the focus of the conference will include, but will not be limited to, the theme “Sustainable urban development: the future of urbanization”, to be discussed and refined during the preparatory process;



At the request by the UN General Assembly, UN-Habitat prepared a Think Piece with a conceptual basis for Habitat III that was shared in November 2013. This is a very thorough and clear description and articulation of [The New Urban Agenda](#). The Think Piece emphasizes that democratic development and respect for human rights to achieve sustainable urban development, are fundamental aspect of the [New Urban Agenda](#).¹⁰⁶

In March 2014 UN-Habitat presented an [Issues Note](#) to the High-Level Committee of the UN Chief Executive Board, with ideas for Habitat III, which stated that urbanization should no longer primarily be seen as a problem, but as a challenge and an opportunity for development. It is therefore important to view “urbanization as a tool for development, rather than as a problem alone”.¹⁰⁷

In order for urbanization to play the role of [drivers or engines](#) of sustainable development, a coherent approach to the phenomenon of urbanization is required, meaning “urbanization to sustainable national development, as well as the main characteristics of a sustainable city”.

The Issues Note strongly recommends the preparation by UN of a paper “Urbanization and Sustainable Development: Towards a New United Nations Urban Agenda”. Again the wish is stated as “The policy paper could explain the role of urbanization in sustainable development, and also propose ideas on the main characteristics of a sustainable city that UN system organizations could jointly promote from the perspectives of their different mandates.” The recognition of the importance of both the [process](#) and the [outcome](#) is clear.

The first meeting of the Preparatory Committee on Habitat III took place in New York, 17-18 September 2014.¹⁰⁸ The meeting mainly focused on the process of the preparation of the Habitat III Conference. Not a word is said about human rights until in the next to the last paragraph, where reference is made to “the reassertion of questions of rights and justice in the context of development...”

As suggested in the UN-Habitat earlier Issues Note, the CEB High-level Committee

on Programmes issued the document “[Urbanization and Sustainable Development: Towards a New United Nations Urban Agenda](#)” in September 2014.¹⁰⁹ This is the most important document on the preparation of Habitat III so far. Emphasis is given to the perceived advantage and opportunities with Urbanization. The idea is to use the new opportunities to harness the transformative force of urbanization.

For the first time in the UN preparatory work of the Habitat III the important role of human rights and a human rights-based approach to urbanization is explicitly recognized. The importance of a human rights-based approach to urbanization and the progressive realization of human rights in the city have increasingly been recognized. The Rio+20 Conference promoted a just and democratic society, and key documents drafted as inputs to the post-2015 development agenda stress that new goals and targets “need to be grounded in respect for universal human rights” and based “on the values of equity, solidarity and human rights.”

The conclusion is that urbanization is a force on its own. The challenge is to find an approach that is guided by [international human rights instruments](#). The vision is to construct the [New Urban Agenda](#), to be used for the promotion of sustainable cities.

A number of Guiding Principles are identified, necessary for a successful realization of the New Urban Agenda, including a very strong one on human rights, namely “[promoting a new urbanization model that contains mechanisms and procedures that respect, protect and promote human rights](#)”. It is further stated that there is a strong need that both the desirable outcome (sustainable cities and other human settlements) and the process to achieve this outcome take account of the content and intent of international human rights instruments.

In conclusion, the relative silence about human rights in the resolutions by the UN-Habitat Council Meeting in April 2013, after the strong enthusiasm and support by UN-Habitat before and at the Council Meeting, was now changed back dramatically during the later work by the CEB HLCP, in particular with the issuing of the “[Urbanization and Sustainable Development: Towards a New United Nations Urban Agenda](#)” in September 2014.

NOTE

106. UN-Habitat (2013); Third United Nations Conference on Housing and Urban Development (Habitat III): Conceptual Basis; November 2013

107. UN-Habitat (2014); Issues Note; CEB High-Level Committee on Programmes, ECLAC, Santiago, 17-18 March 2014

108. UNGA (2014); Preparations for the United Nations Conference on Housing and Sustainable Urban Development; Report of the Secretary-General of the Conference, New York, 17-18 September 2014

109. CEB High-Level Committee on Programmes (2014); Urbanization and Sustainable Development: Towards a New United Nations Urban Agenda; New York, 10 October 2014

4

A Human Rights-Based approach to sustainable Urbanization for Human Rights in the city

A Human Rights-Based Approach to Urbanization

Urbanization and Sustainable Development

Sustainable Development and Human Rights

- The Relationship between Sustainable Development and Human Rights
- A Human Rights-Based Approach seen in a larger United Nations Perspective

The New Urban Agenda

Application of a Human Rights-Based Approach to Urbanization

- Use of the Basic HRBA
- The Use of Enabling Levers

A Human Rights-Based Approach to Urbanization

The **City** is a physical place with a lot of simultaneous activities, including trade, transport, markets, education, health services, housing, water supply and garbage collection etc. The “physical structure” of a city is historically determined and is changing most of the time.

Urbanization is the constantly on-going process of building and re-building the city. Urbanization may be planned or spontaneous. The aim is all the time to make urbanization more and better planned.

As shown earlier, “development” can be re-constructed in a two-dimensional space of **Outcome** and **Process**. Seen in this perspective The City becomes the desirable Outcome, and Urbanization the required Process for achieving this Outcome. In a Human Rights-Based Approach (HRBA) **urbanization** (the process) should adhere to the human rights principles, while **the city** (the outcome) should meet specified human rights standards, for example adequate housing, access to water and sanitation, or any other civil, cultural, economic, political and social right codified in any of the human rights treaties ratified by the country in question.

Urbanization and Sustainable Development

Sustainable Development has played and continues to play an important role in UN Habitat’s conceptualisation of urbanization and the city. Already in 1990 UN-Habitat initiated the **Global Programme on Sustainable Cities**, which aimed at promoting the application of its environmental planning and management principles and techniques, codifying UN-Habitat’s understanding of state-of-the-art urban development practices in cities of the developing world.¹¹⁵

The Habitat Agenda (1996) strongly promoted sustainable development including sustainable urbanization, stating that the process of **urbanization** is “linked to economic development, social development and environmental protection, which are interdependent and mutually reinforcing components of sustainable development”. This is a vision reflected well in the current discussion of **sustainable urbanization**.

The sustainability of cities is seen as a necessary condition for sustainable development, reflected in the slogan “Sustainable Development requires Sustainable Urbanization”.¹¹⁶ This is a major reason for UN-Habitat to strongly promote the concept of ‘Sustainable Cities’ in the discussion of the After 2015 Sustainable Development Goals (SDGs).¹¹⁷ Finally, the **New Urban Agenda** proposed for discussion and adoption at the Habitat III in 2016, is based on the sustainable urbanization/sustainable urban settings model.

As described earlier (Chapter 2.2) almost all UN funds and agencies have endorsed the UN Common Understanding of HRBA (2003).

The most recent Guidelines for preparation of the UNDAF (2010) demand the use and adoption of a HRBA, in accordance with the UN Common Understanding, and provide detailed information for how to use it.¹¹⁰ A large number of detailed evaluations of the practice have also been made and published over the last 15 years, illustrating “best practices”.¹¹¹

Based on the criticism that “cities and human rights are still separate fields in academia as well as in the everyday work of practitioners”¹¹², UN-Habitat should take the lead in changing this situation.

Finally, an important note regarding **urbanization**: During the last two decades it has become increasingly clear that societal processes are often not just complicated but **complex**.¹¹³ **Complexity Theory** is increasingly used in the work to understand “urbanization”.¹¹⁴ As much as this author strongly believes in the importance of complexity for the understanding of urbanization, it has not been included in this paper.

NOTE

110. UNDG (2010); How to Prepare an UNDAF; Part (1) and Part (2); Guidelines for UN Country Teams; January 2010

111. UNICEF (2012); Global Evaluation of the Application of a Human Rights Based Approach to UNICEF Programming (HRBAP); UNICEF, New York, 2012; UNDP (2007), Putting a Human Rights-Based Approach to Poverty Reduction into Practice; Experiences and Lessons from a UNDP Pilot Project. December 2007; UNFPA and Harvard School of Public Health (2008); UNFPA at Work: Six Human Rights Case Studies

112. Lindert, T. and D. Lettinga (2014); The Future of Human Rights in an Urban World; Exploring Opportunities, Threats and Challenges; Amnesty International Netherlands, p.7

113. Prigogine, I. (1997); The end of certainty; New York: Free Press; Nicolis, G. and I. Prigogine (1989); Exploring Complexity, New York: W.H. Freeman; and Capra, F. (1996); The Web of Life; London: Flamingo/Harper Collins; Ramalingam, B and H. Jones (2008); Exploring the science of complexity; ODI, Working Paper 285

114. Hélie, M. (2012); The Role of Urban Complexity in the Practice of Urbanism; Emergent Urbanism; Sennett, R.; The City as an Open System; The Resurgent City: Leverhulme International Symposium, London School of Economics

115. UN-Habitat and UNEP (2002); Sustainable Cities Programme 1990-2000, Nairobi, 2002

116. Allen, A. (2009); Sustainable cities or sustainable urbanization? Summer 2009 edition of ‘palette’ UCL Journal of Sustainable Cities

117. Technical Support Team (UN) (2013); Sustainable Cities and Human Settlements; Issues Brief, led by UN-Habitat and UNEP

Sustainable Development and Human Rights

→ The Relationship between Sustainable Development and Human Rights

The relationship between development and human right was increasingly discussed during the 1990s. While originally the emphasis had been on “needs”, the focus changed to “rights” after the Rio Earth Summit in 1992.¹¹⁸ In response to the UN Secretary-General’s launch of the UN reform in 1997, with emphasis on human rights, a dialogue was established between development and human rights organizations and staff. Meetings were arranged, and a number of papers were published on the subject of the relationships between development and human rights.¹¹⁹

In 1998 UNDP published *Integrating Human Rights with Sustainable Human Development*, which was based on the recognition of the fact that the realization of human rights is a part of sustainable human development, an approach that places people at the center of all development activities. Sustainable human development is thus directed towards the promotion of human dignity and the realization of all human rights.¹²⁰

The fundamental breakthrough came with the publishing of the UNDP *Human Development Report 2000* with the theme “Human Rights and Human Development”.¹²¹ The relationship between human rights and human development was the focus of the report. It was indeed a milestone document not only for UNDP, but also for the whole of United Nations. In this report UNDP tries to reconcile the human development and human rights approaches. However, the report also admits the supremacy of human rights when stating that:

“The success of human rights-based development strategies will rest on the acceptance of a social contract that recognises and respects the primacy of universal human rights vis-à-vis the development process as a whole”

NOTE

118. Redclift, M. (2005); Sustainable Development (1987-2005): An Oxymoron Comes of Age; Sustainable Development 212-227 (2005)

119. Hamm, B. I. (2000), A Human Rights Approach to Development, Human Rights Quarterly 23, 1005-1031; Dias, C. J. (1998) Mainstreaming Human Rights in Sustainable Human Development Programmes, Paper presented at the UNDP Workshop on “Implementing the Human Rights Policy, April 23-24, 1998, New York; and Jonsson, U. (2003); Human Rights Approach to Development Programming, Unicef, Kenya

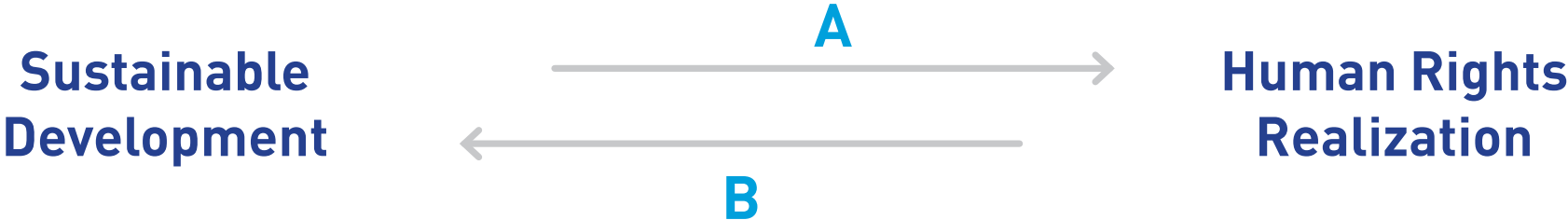
120. UNDP (1998), Integrating Human Rights with Sustainable Human Development, UNDP Policy Document, January 1998

121. UNDP (2000), Human Development Report 2000: Human Development and Human Rights

This means that the aim and purpose of development is the realization of human rights. A human rights-based approach (HRBA) is a set of tools that guides development in that direction.

An often quoted statement in the UNDP Human Development Report 2000, that “Sustainable development and human rights are interdependent and mutually reinforcing”, is a phrase still being used frequently. Instead of clarifying, this has continued to confuse the conceptualization. There is a need to conceptually clarify the relationship between sustainable development and human rights. What exactly does that mean? How are they dependent on each other? Is one a pre-condition of the other?

The possible relationships between sustainable development and human rights are illustrated below and generates some questions:



(a) Experience has shown that sustainable development necessarily results in the progressive realization of some human rights. However, does the realization of some human rights require more than sustainable development? And, when development is clearly sustainable, are all human rights progressively fully being realized?

(b) On the other hand, it is also reasonably clear that progressive realization of human rights contributes to sustainable development. However, does sustainable development require more than the realization of human rights? And, when all human rights are realized, is development then clearly sustainable? Mary Robinson once said, “Respect for and enforcement of human rights is a [precondition](#) for sustainable development”.¹²²

The “model” described above will require further research and conceptual analysis. However, it is the conclusion by the author of this paper, that [sustainable development as understood today and human rights realization are to a large extent dialectically related](#). Neither sustainable development, nor human rights realization can be fully understood or achieved without an understanding and achievement of the other one.

It is interesting to note that three of the four “components” of sustainable development primarily reflect specific groups of human rights: Sustainable Social Development (social and cultural rights); Sustainable Economic Development (economic rights); and Sustainable Political Development (political and civil rights), while Sustainable Environmental Development does not yet have a clear group of “environmental rights”, although some right in the ICESCR and ICCPR do relate to environment.

NOTE

122. IDRC (2002); The Human Rights Approach to Sustainable Development: Environmental Rights, Public Participation and Human Security; United nations Association in Canada, Insight Series 2002

In order to fully understand and appreciate the potentially powerful role of human rights, the relationships between human rights and peace, justice and democracy needs to be understood. The relationship between justice and human rights is of particular importance. In the Conceptual Note for the Habitat III the application and integration of [justice and human rights](#) in public policy and development is recognized, as well as the need to include [democratic development and respect for human rights](#) to achieve sustainable urban development at every level.¹²³

As mentioned earlier, the Universal Declaration on Human Rights, in its preamble states that “The equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace”, referring to the “four pillars” of [Peace, Justice, Freedom \(Democracy\) and Human Rights](#). In the ongoing work with the Post-2015 Development Agenda and the SDGs there is a re-newed interest in a joint Human Rights and Justice Approach.¹²⁴

However, the Universal Declaration of Human Rights further explains that human rights form the foundation for the other three.

**“The recognition of the inherent dignity
and of the equal and inalienable rights of all
members of the human family is the foundation
of freedom, justice, and peace in the world”¹²⁵**

This suggests that the realization of human rights is a pre-condition for the achievement of the other three. This means that a Human Rights-Based Approach (HRBA) to Development represents the broadest and most fundamental development strategy. The realization of human rights contributes to peace, justice and democracy in the world. This paper is therefore limited to human rights; in other words it is about [A Human Rights-Based Approach to Sustainable Urbanization for the Realization of the Rights in the City](#), clearly reflecting the equal attention to the process and the outcome.

NOTE

123. UN-Habitat (2013); Third United Nations conference on housing and sustainable urban development (Habitat III) – Conceptual basis; p.19

124. CESR (2013); A Matter of Global Justice; Securing human rights in the Post-2015 sustainable development agenda

125. United Nations (1947); The Universal Declaration of Human Rights; First sentence in the Preamble

The basic argument for a [New Urban Agenda](#) is the recognition of the fact that urbanization is a force of its own. This force must and can be controlled and oriented by policies, strategies and actions to become a [transformative](#) instrument in selecting and designing the process of sustainable urbanization for the achievement of sustainable cities as the desirable outcome. In other words, urbanization can function as a key “driver of change”. Urbanization generated dynamism of change must be moved from being driven by technology and economy to be guided by the progressive realization of human rights.

During the discussion about HABITAT III, the need has been emphasized to understand how to re-construct urbanization in such a way that the process of urbanization results in sustainable cities in the future.¹²⁶ A Concept paper describes this as follows.¹²⁷

“The transformation of the city from a platform to a vector force, almost coincides with the shifting of the approach of the Habitat II agenda to the one that is being proposed in this document for Habitat III. It is a change from looking at the city not only as a place, but also as a force for change at both local and global levels.”

It is important to fully appreciate and understand this changing view of the role of the city and the need and possibility to strengthen and control the [transformative power of urbanization](#). A key in this change is the need to control the “spatial growth” and to find the optimal [Spatial Fix](#), as elaborated below: ¹²⁸

NOTE

126. UN-Habitat (2014); The Spatial Fix – Transforming the City; Concept Note – Some Critical Reflections

127. UN-Habitat (2013); Third United Nations conference on housing and sustainable urban development (Habitat III) – Conceptual basis

128. UN-Habitat (2014); The Spatial Fix – Transforming the City; Concept Note – Some Critical Reflections

“The Spatial Fix requires understanding urbanization and its salient elements for change, identifying and deploying transformative dynamic vectors and operationalizing strategic interventions that have the potential to transform the space itself and influence societal positive outcomes in other domains.”



Urban form refers to the spatial configuration of a city or city region, i.e. the patterns, spatial attributes and qualities of the urban structure. Urban form is closely linked with the dynamics of economic activity in a city. Certain types of urban form, including high density, good connectivity and mixed land uses, can improve the efficiency of economic activities. With the help of “vectors or levers of change”¹²⁹ the optimal [Spatial Fix](#) can be created. This is why good urban planning is a key element for sustainable cities.

Different “levers of change” can be developed and used to support and accelerate the realization of the transformative strength of urbanization, contributing to sustainable development of cities, and thereby contributing to the realization of human rights of all citizens. These levers of change are of two types:

Enabling Levers

(development enablers) are primarily used to influence and control the process of urbanization. These are deployed to increase productivity, enhance shared growth, and create multiplier effects which spread across space and through different levels of urbanization.

Three key Enabling Levers are proposed:

- National Urban Policy
- Laws, Institutions and Systems of Governance
- Urban Economy

Operational Levers

(operational enablers) are primarily used to influence and control the outcome of the urbanization, i.e. the city. These levers are deployed at the level of implementation and which directly determine the actual form and content of the city. Connected with the other levers through rules and regulations, these operational components allow for the continuous steering of urban development, influencing land-use patterns, determining city form, and forming the basis for managing common goods.

Three key Operational Levers are proposed:

- Urban Planning
- Local Fiscal Systems
- Investment in Urban Basic Services

NOTE

129. Recently the term ‘levers’ is being used instead of ‘vectors’

Applying these levers of change, however, is not enough for achieving a [sustainable urbanization, leading to a sustainable city](#). In order to achieve this, each of the levers need to be re-constructed to maximally contribute to the realization of both a [human rights relevant process](#) and a [human rights relevant outcome](#). Or, in other words, a Human Rights-Based Approach (HRBA) must be applied as the overall strategy in the process of strengthening the transformative power of urbanization. This is demonstrated in one of the practical examples in the next chapter.

Application of a Human Rights-Based Approach to Urbanization

→ Use of the Basic HRBA

The meaning and operational use of a Human Right-Based Approach (HRBA) to Development (Category 5) as currently understood is based on the [UN Common Understanding on a Human Rights-Based Approach to Development](#), described in Chapter 2.3 of this paper.

After the desirable outcome or sub-outcomes have been specified, agreed upon and confirmed to be relevant from a human rights perspective, most often it is found that a selected outcome represents a solution of a perceived problem, for example the problem of in-security of tenure, of un-affordability, etc.

The first step in a human rights-based analysis is therefore a [Causality Analysis](#), which will identify the immediate, underlying and basic causes of the problem and how these relate to each other, explaining the desirable outcome. Such an analysis will not only show the structure of the problem but also identify the key actors involved in the problem.

It is at this stage that a human rights-based approach significantly differs from most conventional planning practices. Instead of the commonly used “top-down” planning, some form of “bottom-up” planning is required. This starts by identifying the ultimate beneficiaries of the achievement of the desirable outcome. In most cases these have legitimate human rights to these benefits. They are [claim-holders](#) with valid claims on correlative duty-bearers (individuals/groups/institutions), reflecting a [human rights relationship](#). Several such interlinked human rights relationships form a [pattern of rights \(Pattern Analysis\)](#). In the case of the right to adequate housing, the tenant is often the key claim-holder, while the [landlord](#) often is one of the key duty-bearers. It is important to note that a correctly undertaken Pattern Analysis also provides an excellent basis for the identification and specification of [accountabilities](#).

The purpose of the next step, the [Capacity Gap Analysis](#) is to estimate the type and the size of the capacity gaps, as described in Chapter 2.3. In the case of the right to adequate housing this could include the tenant’s lack of communication skills, for example speaking the language or being able to explain a problem for the landlord or the lack of responsibility of the landlord.

The last step is the preparation of [The Draft Plan of Action](#) that will outline activities at different levels required to reduce or eliminate the most important capacity gaps of claim-holders to claim their rights and of duty-bearers to meet their duties.

This means that in each case the [capacity](#) of an individual, a group or an institution will be targeted by interventions aiming at increasing one or several of the missing parts of the required capacity (i.e. responsibility, power, resources, etc.).

The example of the relationship between the tenant and the landlord within the right of adequate housing is analyzed in Chapter 6.2.

Each of the interventions to build capacities can be structured and designed in many different ways, for example, it is very likely that an [inclusive urbanization](#) will design the intervention differently from a [non-inclusive urbanization](#).

But even within the same type of urbanization, say [sustainable urbanization](#), the way these interventions are designed and implemented are likely to differ.

In a Human Rights-Based Approach the urbanization process of identifying, implementing and monitoring of these interventions must adhere to [human rights principles](#), recognized in International Human Rights Law (equality, non-discrimination, participation, etc.)



Sometimes the human rights standards are easy to define, in particular when the standard is a codified human right, like the right to health or education. However, often the “desirable outcome” must be divided into a number of components of the full standard. In such a case the use of the earlier defined [Enabling Levers](#) (Chapter 5.4) becomes very useful. The ultimate desirable outcome articulated by its components will guide the selection of which of the enabling levers are most likely to be important to influence the processes likely to be required for the meeting of the desirable outcome.

In the next chapter (Chapter 6.1) this method is shown in the example of [Urban Planning](#) as the selected enabling lever and the [Right to Adequate Housing](#) as the desirable outcome.

Finally, a [Human Rights-Based Monitoring System](#) should be developed with the aim of providing the right information to the right person (or persons) at the right time to make it possible to continuously change the Plan of Action as appropriate. In a HRBA it is obligatory to monitor both the achievement of the desirable outcome and the quality of the process.¹³⁰ The work on the [Data Revolution for Sustainable Development](#), which is human rights sensitive, should be carefully followed and relevant aspects including in the UN-Habitat monitoring systems.¹³¹ UN-Habitat is currently making progress in using the [City Prosperity Initiative](#) to monitor both process and outcome to guide cities in the path of shared prosperity.

NOTE

- 130.** UNDP (1998), Integrating Human Rights in Sustainable Human Development: A Policy Document, UNDP, 1998; UNDP (2002), Human Rights-Based Reviews of UNDP Programmes: Working Guidelines; UNEG (2011); Integrating Human Rights and Gender Equality in Evaluation – Towards UNEG Guidance; Guidance Document 2011; and OHCHR (2012); Human Rights Indicators; A Guide to Measurement and Implementation
- 131.** The United Nations Secretary-General’s Independent Expert Advisory Group on a Data Revolution for Sustainable Development (IEAG) (2014); A World that Counts; Mobilising the data revolution for sustainable development; November 2014

5

The practical use of the new approach

The Use of Strategic Levers in a HRBA to the Right
to Adequate Housing

Analysis of the Human Rights Relationships between Tenants
and Landlord in Relation to the Right to Adequate housing

The Use of Strategic Levers in a HRBA to the Right to Adequate Housing

There are different ways in which a HRBA to Development and to Programming can be used. Two examples will be given here. In the first example it is shown how [strategic levers](#) can be made [human rights sensitive](#) and applied in the work to progressively realize the Right to Adequate Housing. In the second example a more traditional HRBA methodology is used to plan for the tenant's Right to Adequate Housing with a focus on the human rights relationships between tenant and landlord in the context of other relevant actors at different level of society in their roles of duty-bearers and claim-holders

The six proposed Strategic Levers (National Urban Policy; Laws, institutions and systems of governance; Urban Economy; Local Fiscal Systems; Urban Planning; and Basic Services/Infrastructure) represent very broad areas for interventions. In each particular situation those levers need to be selected that are most likely to influence and strengthen those processes that accelerate the achievement of the desirable outcome. As the outcome must contribute to the realization of a human right (i.e. meeting a human rights standard) and the process be human rights mainstreamed (i.e. meeting relevant human rights principles), the strategic levers chosen must first be made [human rights sensitive](#), relevant in a given context.

The [City Prosperity Initiative](#) can be used as the monitoring framework to understand the weaknesses and strengths of the city and the urbanization process in order to prepare a more scientific diagnostic. Based on this information, it is possible to understand which vector lever needs to be deployed with more possibilities to influence both the process and the outcome of the sustainable city. In this manner, the CPI – as a metric and a policy dialogue – becomes an instrument of HRBA.

In practice, therefore, after that a specific programme or project has been structured reflecting both the Log frame process and the Pattern of human rights relationships, those strategic levers likely to be the most relevant are restructured to become acceptably [human rights-sensitive](#). This will help in re-designing or selecting improved interventions (actions).

[Right to Adequate Housing includes](#): (1) [Legal security of tenure](#), including security against forced eviction, harassment, or other threats; (2) [Availability of services, materials, facilities and infrastructure](#), including health, security, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services; (3) [Affordability](#), for which the associated costs are at a level that does not threaten other basic needs; (4) [Habitability](#), with adequate space, physical security, shelter from weather, and protection from threats to health like structural hazards and disease; (5) [Accessibility](#), including disadvantaged groups of society, who may have special housing needs that require extra consideration; (6) [Location](#), permitting access to employment opportunities, health care, schools, child care and other social facilities; and (7) [Cultural adequacy](#), facilitating cultural expression and housing diversity and maintaining the cultural dimensions of housing while still ensuring modern technological facilities.¹³²

NOTE

132. OHCHR (2004), The Rights to Adequate Housing; Fact Sheet No. 21 (Rev.1), Geneva 2004

In most situations all, or almost all, of the six proposed strategic levers may be important for the realization of the right to adequate housing. The strategic operational lever of [Urban Planning](#) is chosen here as an example.

The analysis will show that its application contributes significantly to most aspects of the right to adequate housing. According to UN-Habitat [Sustainable Urban Planning](#) should address current urbanization challenges by applying the following [Five Principles](#): (1) Adequate street density and efficient street network; (2) High (residential) density of inhabitants; (3) Mixed land use; (4) Social mix; and (5) Limited land use specialization.¹³³ One may say that the [Five Principles](#) reflects a kind of “causality analysis” of the general situation in the City, suggesting in very broad terms what to do.

In a human rights perspective these principles can be seen as “[human rights-sensitive sub-levers](#)”, each contributing to the realization of certain components of the Right to Adequate Housing. This is illustrated in the Table below:

NOTE

133. UN-Habitat (2012); New strategy of sustainable neighborhood planning: Five Principles; Urban Planning and Design Branch, Discussion Note 3, UN-Habitat, Nairobi

Planning Principle (Sub-Lever of Change)	Impact on the Urban Outcome (The City)	Impact on the Realization of the Rights to adequate Housing
1. Adequate street density and efficient street network	Shorter time required and safer walking or cycling to facilities and services. Easy access to public transport	Improved availability and accessibility of services, facilities and workplaces. Increased walking and cycling stimulates contact among individuals and therefore cultural exchange
2. High (residential) density of inhabitants	People live closer to each other and to services and possibly closer to employment. A concentration of people and their activities	Improved location and availability to health, education and other social services. - Stimulates and facilitates social mix among people.
3. Mixed land use	A combination of residential, commercial, industrial and office close together in appropriate locations	Improved availability and access to work places. Stimulates and facilitates social mix among people with different background
4. Social mix	Availability of houses in different price ranges and tenure types in the same area of living	Increased affordability of housing and therefore improved security of tenure and habitability. Facilitates respect for different cultures and housing diversity
5. Limited land use specialization	Limited number of single function blocks or neighborhoods - Stimulates mixed land use	Improved location and availability and access to work places.

As can be seen from the likely impact on the realization of the right to adequate housing (column 3) almost all of the six aspects of this human right are likely to be addressed. This means that each of the proposed ‘sub-levers’ qualifies as highly valid human rights sensitive sub-levers, facilitating the achievement of the desirable outcomes.

Analysis of the Human Rights Relationships between Tenants and Landlord in Relation to the Right to Adequate housing

In the previous chapter (Chapter 6.1) the Right to Adequate Housing was defined as including security of tenure, availability of services, affordability, accessibility, location and cultural adequacy. The practical example chosen here is the human rights relationship between the tenant and the landlord.

As described in Chapter 2.3 the methodology consists of six consecutive steps: [1] Causality Analysis; [2] Pattern Analysis; [3] Capacity Gap Analysis; [4] Identification of Priority Actions; [5] Assessment of selected processes; and [6] Programme Design. These steps are briefly described below.

The Causality Analysis will result in a list of rights that are either not being realized or at risk of not being realized, together with the major causes of these non-realizations or violations. In addition this analysis will identify “candidate” **claim-holders** and duty-bearers for each right selected.

It is assumed here that the tenant’s right to adequate housing is violated, threatened or at risk of not being fully realized. A Causality Analysis has shown that the key actors in the process of the realization of the tenant’s right include in addition to the tenant, the landlord, the municipality and the national government. In this example the tenant is regarded as the key **claim-holder** and the landlord the key (correlative) **duty-bearer**.

The Pattern Analysis will analyze key human rights relationships between claim-holders (subjects) and duty-bearers (objects). The example here illustrates the human rights relationships of the tenant and the landlord, and their relationships to the municipality and the national government. Claims and correlative duties for each actor are listed. (Bold text is used to highlight the direct human rights relationship between the tenant and the landlord.)



Table 1: Pattern Analysis of the Right to Adequate Housing

<div><div>Duty-Bearer</div><div>Claim-Holder</div></div>	Tenant	Landlord	Municipality	National Government
Tenant		<ul style="list-style-type: none">• Rent paid on time• No damage on property and if so, paid by the tenant• No disturbing noise• Max number of people in one unit	<ul style="list-style-type: none">• Register name and address	
Landlord	<ul style="list-style-type: none">• Access to water, sanitation, electricity and garbage collection• Repair due to ordinary wear and tear• Non-discrimination for any reason• Ensure peace and security		<ul style="list-style-type: none">• Pay taxes on income of rent• Keep area in question clean and lit	<ul style="list-style-type: none">• Pay taxes on income of rent• Register each tenant
Municipality	<ul style="list-style-type: none">• Provide housing subsidies for people who are poor• Establish a complaints mechanism	<ul style="list-style-type: none">• Provide public access to electricity, water, sanitation and garbage collection		<ul style="list-style-type: none">• Be accountable to the Government
National Government	<ul style="list-style-type: none">• Prepare, implement and monitor a National Housing Policy• Legislate against un-lawful forced evictions	<ul style="list-style-type: none">• Allow tax deduction for cost of repair	<ul style="list-style-type: none">• Budget support for municipality housing subsidies• Serve municipality with electricity	

In the **Capacity Gap Analysis** claim-holders’ lack of capacity to claim their rights, and duty-bearers lack of capacity to meet their duties are identified and estimated. As described in Chapter 2, “Capacity” may include the following components: (1) Responsibility, motivation, and commitment; (2) Authority or power; (3) Access and control of resources; (4) Capability for rational decision-making and learning; and (5) Communication capability.

The table below shows examples of capacity gaps of tenants to claim their rights against the landlord, and the capacity gaps of the landlord to meet their correlative duties to the tenants.

Table 2A: Capacity Gaps of Tenants as Claim-Holders and of Landlords as Duty-Bearers in the Tenant-Landlord Human Rights Relationship (as part of the Right to Adequate Housing)

<div> Duty-Bearer <div> Claim-Holder </div> </div>	Capacity Gaps of Tenants as Claim-Holders in Relation to the Landlord	Capacity Gaps of the Landlord as Duty-Bearer in Relation to the Tenant
Responsability	May sometimes believe that all damages should be repaired by the landlord	Does not feel responsibility for the repair due to ordinary wear and tear
Authority	Does not have the courage to request the landlord to repair damages due to wear and tear	Does not have the courage to put forward legitimate demands of tenants to the municipality
Resources	Cannot afford any lawyer in a dispute with the landlord	Does not have the economic resources to repair due to wear and tear
Decision-Making Capability	Does not fully understand the conditions and responsibilities in the housing contract	Does not know the conditions of the rented flats well enough to be able to decide what needs to be done
Communication	No access to some regularly meetings of the tenants and the landlord for discussion about problems Is not fully conversant with the language of the landlord	No access to some regularly meetings of the tenants and the landlord for discussion about problems

A similar table (TABLE 2B) needs to be prepared showing capacity gaps of the landlord to claim their rights against the tenant, and the capacity gaps of the tenant to meet the correlative duties to the landlord.

Table 2B: Capacity Gaps of the Landlord as Claim-Holder and of the Tenants as Duty-Bearers in the Tenant-Landlord Human Rights Relationship (as part of the Right to Adequate Housing)

<div> <div>Claim-Holder</div> <div>Duty-Bearer</div> </div>	Capacity Gaps of the Landlord as Claim-Holders in Relation to the Tenants	Capacity Gaps of the Tenants as Duty-Bearer in Relation to the Landlord
Responsability	Believes that all repair should be paid by the tenant	Do not always accept responsibility for repair of damaged property
Authority	Does not have the authority to vacate tenants with children who do not pay rent	Have no credibility to take a bank loan to pay a month's rent
Resources	Cannot afford that some tenants cannot pay rents, even for a short period	Do sometimes not have money to pay rent on time
Decision-Making Capability	Does not allow tenants to participate in decisions about the housing conditions	No effort is made by the tenants to jointly make requests to the landlord
Communication	No access to some regularly meetings of the tenants and the landlord for discussion about problems	No access to some regularly meetings of the tenants and the landlord for discussion about problems

In the [Identification and Assessment of Priority Actions](#), each specific claim-duty relationship is analyzed to identify the most important interventions to reduce or close the capacity gaps. Priority actions are then identified that are most likely to contribute most significantly to reduce these gaps. TABLE 3A below summarizes an analysis of capacity gaps and actions to close the capacity gaps of tenants to claim their rights from the landlord.

Table 3A: Analysis of Capacity Gaps and Actions to close the Capacity Gaps of the Tenants to claim the rights from the Landlord

<div> Duty-Bearer <div> Claim-Holder </div> </div>	Capacity Gaps of the Tenants as Claim-Holders in Relation to the Landlord	Actions to close the Capacity Gaps
Responsability	May sometimes believe that all damages should be repaired by the landlord	Include in the contract in detail exactly what the duties of the tenant and of the landlord are, including those for repair of damages and for which type
Authority	Does not have the courage to request the landlord to repair damages due to wear and tear	Establish a transparent complaints mechanism
Resources	Cannot afford any lawyer in a dispute with the landlord	Provide economic support for tenants living in poverty to obtain legal assistance
Decision-Making Capability	Does not fully understand the conditions and responsibilities in the housing contract	Before the tenant signs the contract the conditions and responsibilities should be outlined and explained with an official present
Communication	No access to some regularly meeting of a 'tenants/ landlord' committee for discussion about problems Is not fully conversant with the language of the landlord	No access to some regularly meeting of a 'tenants/ landlord' committee for discussion about problems Engage someone who can translate to participate in the tenants/landlord meetings

A similar analysis is required to analyze capacity gaps and actions to close the capacity gaps of the landlord to meet the duties to the tenant (TABLE 3B).

Table 3B: Analysis of Capacity Gaps and Actions to close the Capacity Gaps of the Landlord to meet the duties to the Tenants

<div> <div>Claim-Holder</div> <div>Duty-Bearer</div> </div>	Capacity Gaps of the Landlord as Duty-Bearer in Relation to the Tenant	Actions to close the Capacity Gaps
Responsability	Does not feel responsibility for the repair due to ordinary wear and tear	Specify clearly in the rental contract what is meant with ordinary wear and tear
Authority	Does not have the courage to put forward legitimate demands of tenants to the municipality	Establish a mechanism with the community/municipality legal authorities to assist in such situations
Resources	Does not have the economic resources to repair due to wear and tear	Establish improved bank loan opportunities for house owners
Decision-Making Capability	Does not know the conditions of the rented flats well enough to be able to decide what needs to be done	Establish regular tenant/landlord meetings with each tenant participating. Agree on a list of required improvements
Communication	There is no "tenants/landlord" committee for discussion about problems	Establish regular tenant/landlord meetings with each tenant participating

Finally, in order to complete this analysis, two additional tables similar to TABLES 3A and 3B must be prepared for the 'reverse' of the human rights relationship, namely Analysis of Capacity Gaps and Actions to close the Capacity Gaps of the Landlord to claim their rights from the Tenant (TABLE 3C); and TABLE 4B: Analysis of Capacity Gaps and Actions to close the Capacity Gaps of the Tenant to meet the duties to the Landlord (TABLE 3D)

Table 3C: Analysis of Capacity Gaps and Actions to close the Capacity Gaps of the Landlord to claim the rights from the tenants

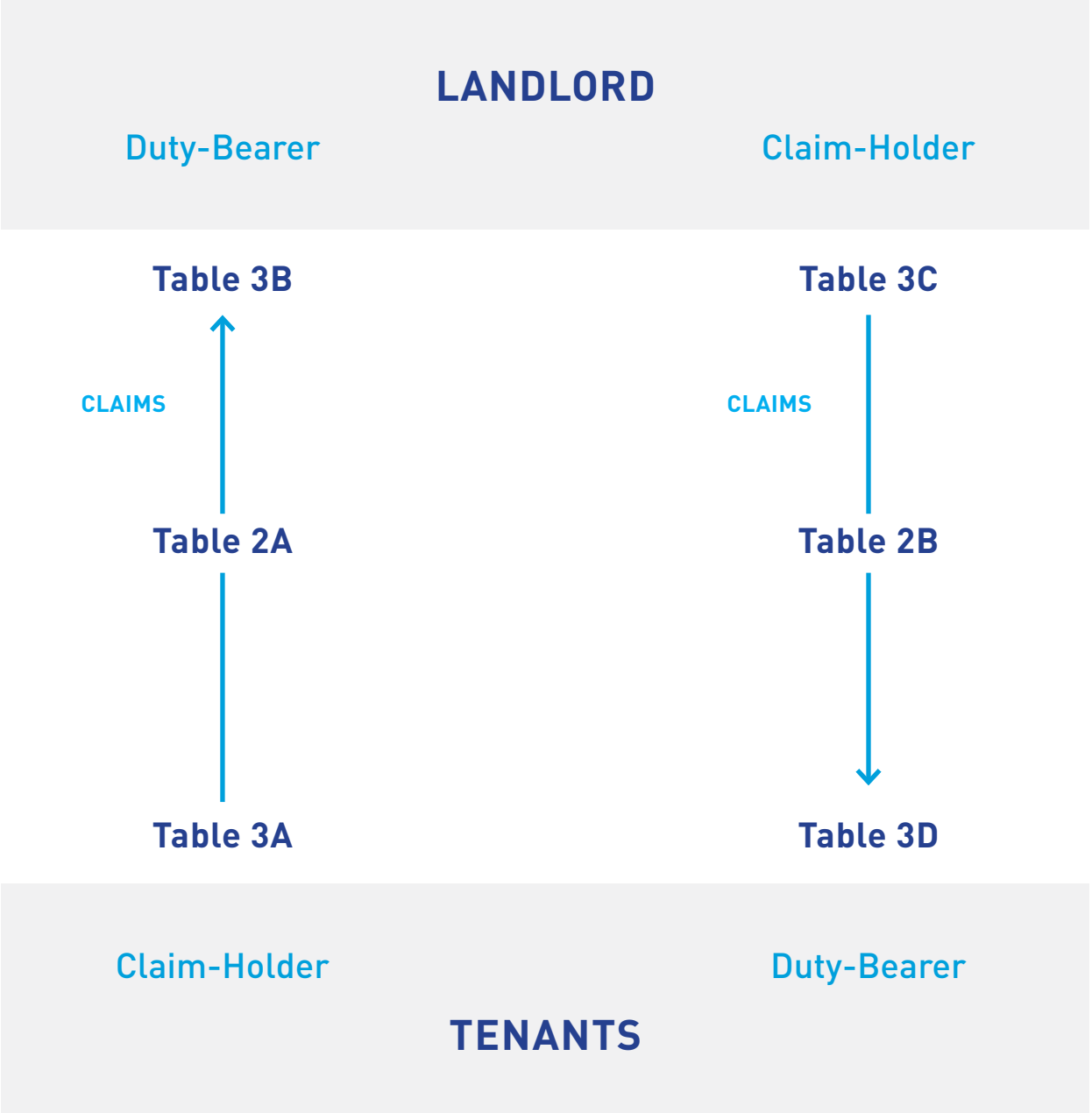
<div> Duty-Bearer <div> Claim-Holder </div> </div>	Capacity Gaps of the Landlord as Claim-Holder in Relation to the Tenant	Actions to close the Capacity Gaps
Responsability	Cannot afford a lawyer in convincing a tenant of his/her responsibility to repair damage on property	Establish a mechanism with the community/municipality legal authorities to assist in such situations
Authority	Does not have the authority to vacate tenants with children who do not pay rent	Establish a mechanism with the community/municipality legal authorities to assist in such situations
Resources	Cannot afford that some tenants cannot pay rents, even for a short period	Establish a mechanism with the community/municipality legal authorities to assist in such situations
Decision-Making Capability	Does not allow tenants to participate in decisions about the housing conditions	Engage the municipality in legislating about required tenants' participation in certain types of decisions
Communication	No access to some regularly meetings of the tenants and the landlord for discussion about problems	Establish regular tenant/landlord meetings with each tenant participating. Agree on a list of required improvements

Table 3D: Analysis of Capacity Gaps and Actions to close the Capacity Gaps of the Tenants to meet the duties to the Landlord

<div> Duty-Bearer Claim-Holder </div>	Capacity Gaps of Tenants as Duty-Bearers in Relation to the Landlord	Actions to close the Capacity Gaps
Responsability	Do not always accept responsibility for damaging property	Establish an elected team of 5-6 tenants to assist in the assessment of the damage
Authority	Have no credibility to take a bank loan to pay a month's rent	Improve the availability of long-term low interest loans
Resources	Do sometimes not have money to pay rent on time	The Government or the Municipality to establish a rental subsidy mechanism for families with low income
Decision-Making Capability	No effort is made by the tenants to jointly make requests to the landlord	Advise and assist the tenants to arrange regular tenants only meetings
Communication	No access to some regularly meeting of a 'tenants/ landlord' committee for discussion about problems	Establish regular tenant/landlord meetings with each tenant participating. Agree on a list of required improvements

The diagramme below illustrates the different contents of the Tables 2A and 2B, and Tables 3A-3D. Obviously the same or a similar action may be identified in more than one table.

In the final step, the [Assessment of Selected Processes](#), each of the chosen interventions automatically has a human rights relevant [outcome](#), reflecting the necessary reduction of capacity gaps of claim-holders and duty-bearers to contribute to the realization of the right to adequate housing. The selected [processes](#) to achieve these outcomes must reflect or integrate relevant human rights principles (equality and non-discrimination, participation and inclusion, and accountability and the rule of law).



6

Conclusions and Recommendation

Conclusions

Recommendations to UN-Habitat

- The re-construction of urbanization into a process and a city as the outcome provides a unique conceptualization for the adoption of a Human Rights-Based Approach (HRBA) to Development.
- A Human Rights-Based Approach to Development, in particular the use of a Pattern Analysis, will stimulate and significantly facilitate the implementation of The Principle of Subsidiarity, which basically means that action should be taken at the level where the most appropriate decision-makers are, and where the resources should be.
- Sustainable development, including sustainable urbanization, and the realization of human rights are dialectically related processes. A HRBA to urbanization, particularly the use of its Pattern and Capacity Gap Analyses, will therefore facilitate the identification and use of relevant levers (vectors) of change for the realization of the transformative strength of urbanization, in accordance with the proposed New Urban Agenda.
- It was not until the UN Secretary-General's Reform (1997) and the UN Common Understanding (2003) that the United Nations and its agencies moved into an era of a Human Rights-Based Approach (HRBA) to Development. This explains to some extent why the Habitat Agenda (1996) referring to human rights was giving very limited advice or direction for the adoption of a human rights-based approach.
- UN-Habitat was not among those UN agencies that participated and contributed to the intensive development in the early 2000s of adopting and applying a HRBA to Development in their work (like for example UNDP, UNICEF, OHCHR and UNFPA). This started to change in the beginning of this decade by the UN-Habi-

- tat's involvement with the undg-hrm Mechanism; work with the issue of forced eviction of slum dwellers; increased dialogue with many strong human rights oriented NGOs; and UN-Habitat's new orientations promoting a human rights approach.
- Efforts had been made in different branches of UN-Habitat to adopt a human rights-orientation, particularly in the work on the Right to Adequate Housing, including the critical issue of slums and unlawful evictions, and the Right to Water and Sanitation. However, in most of the regular reports and other publications, while human rights are often mentioned (Habitat Agenda), there are few serious efforts to adopt, use and elaborate any more advanced forms of human rights integration, like the HRBA.
 - The desire to adopt a human rights-based approach intensified and was articulated in many forms during the preparation of the UN-Habitat Governing Council Meetings in April 2013. However, the enthusiasm expressed in many of the Ex Dir.'s reports to the council was not fully reflected in the agreements and reports by the Council.
 - However, the last year's work by the CEB HLCP, in particular with the issuing of the "Urbanization and Sustainable Development: Towards a New United Nations Urban Agenda" in September 2014, has strongly recommended the adoption of a human rights approach to the process of sustainable urbanization for the progressive realization of human rights in the city as the outcome.
 - The Council Meeting in April 2015 was significantly more supportive of human rights in general and to the adoption of a human rights approach. It is expected that the policy outcome of Habitat III – The New Urban Agenda – will be complying with HRBA.

NOTE

134. Conclusions in relation to the Advantages of a HRBA to Development are given in Chapter 2.4

Recommendations to UN-Habitat

→ UN-Habitat's 'cross-cutting approach' (Category 3) should gradually be replaced by efforts to integrate human rights principles (Category 4) and move towards the full adoption of a HRBA (Category 5).

The combination of a Human Rights-Based Approach and a Justice Approach (equity) should be considered in the future, when the first is fully understood, adopted and used by staff.

→ UN-Habitat should integrate more in the work programme of the organization exercises that articulate the HRBA methodology with the levers (vectors) for change, following the sequence of the six consecutive steps: (1) Causality Analysis; (2) Pattern Analysis; (3) Capacity Gap Analysis; (4) Identification of Priority Actions; (5) Assessment of selected processes; and (6) Programme Design.

→ In Accordance with the UN Common Understanding of HRBA, UN-Habitat should strongly promote the equal attention to the monitoring of both the outcome and the process in development.

Based on this monitoring and evaluation of the realization of human rights should be integrated both as part of the urbanization process and the sustainable city. The City Prosperity Initiative should be promoted and developed further to become a good metric and a policy dialogue for this purpose.

→ During the last twenty years it has been rather common to launch new 'ideal' urban characteristics, like inclusive, prosperous, resilient, green, etc. cities. UN-Habitat should continue to focus on sustainable cities and human settlements, because 'sustainability' and 'human rights' are dialectically reinforcing concepts.

→ UN-Habitat should consider promoting the re-introduction of political sustainability as one of the original aspects of 'sustainability' together with economic,

social and environmental sustainability. This is necessary in order to make sustainability fully compatible with human rights. It would also reflect some of the meaning of the 'Right to the City'.

→ UN-Habitat should play a more important and visible role in the work to establish a new Convention on the Protection of the Environment (climate change, urbanization and human rights).

→ UN-Habitat should continue to play an active role not only in promoting a separate and human rights-based Sustainable Development Goal (SDG) for urbanization, but also for the adoption of human rights as an overarching framework for the Post-2015 Agenda, including all SDGs.

The mistake made with the MDGs in separating them out of the Millennium Declaration, which stipulated a necessary human rights dimension, must be avoided.

→ UN-Habitat with its staff should engage stronger in the work of the Special Procedures, including participation in and review of the reports by both the Charter-based Human Rights Council's Universal Periodic Reviews and the Recommendations by the Special Procedures; and the Treaty-based bodies' General Comments, State Reports and Concluding Observations

→ UN-Habitat, both HQ and field offices, should continue to work very close with the undg Human Rights Working Group (HRWGM) Mechanism, which will help in the adoption of a HRBA and also strengthen UN-Habitat's contribution to 'Delivering as One'.

→ UN-Habitat should continue and significantly increase and improve the training of both senior and junior staff in the understanding and practical use of a Human Rights-Based Approach (HRBA to Development).



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