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# URBANISATION AND HUMAN RIGHTS

Prospects on Urban Challenges and Adequate Housing

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## ABSTRACT

Housing and urbanisation are two important trends that have been shaping the world since some centuries ago. These transformations will continue in the future and will affect the prosperity of world's cities. New local and international commitments will be needed to face these challenges. Inclusive planning, taking into account the most vulnerable groups, and with the addition of a human rights rationale, could help to find the balance to achieve sustainable urbanisation.

Although this interesting connection (and its challenges), between urbanization and housing, is present in many cities, the case of Rio de Janeiro's favelas illustrates the consequences of the lack of urban planning, with the perpetuation of slums and informal settlements.

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## TABLE OF ABBREVIATIONS

**CEDAW:** Convention on the Elimination of All Forms of Discrimination against Women

**CESCR:** Committee on Economic, Social and Cultural Rights

**CPR:** Civil and Political Rights

**CRC:** Convention on the Rights of the Child

**CRPD:** Convention on the Rights of Persons with Disabilities

**ECHR:** European Convention on Human Rights

**ECOSOC:** Economic and Social Council

**ESCR:** Economic, Social and Cultural Rights

**GA:** General Assembly

**GC:** General Comment

**HRBA:** Human Rights-Based Approach

**ICCPR:** International Covenant on Civil and Political Rights

**ICESCR:** International Covenant on Economic, Social and Cultural Rights

**ICRMW:** International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

**MCMV:** Miña Casa Miña Vida

**MDG:** Millennium Development Goals

**NHRI:** National Human Rights Institutions

**NUA:** New Urban Agenda

**OHCHR:** Office of the High Commissioner of Human Rights

**RTAH:** Right to Adequate Housing

**SDG:** Sustainable Development Goals

**UDHR:** Universal Declaration on Human Rights

**UHRI:** Universal Human Rights Index

**UN:** United Nations

**UNDP:** United Nations Development Programme

**UNHHSF:** United Nations Habitat and Human Settlements Foundation

**UPR:** Universal Periodic Review

## INTRODUCTION

Considering that urbanization is an unprecedented phenomenon, that today the total urban population has far exceeded the rural population<sup>1</sup>, and that by 2030 it is estimated that more than 60% of the world's population will be urban<sup>2</sup>, we have a chance to improve this phenomenon by adding a human rights perspective to it, to protect and enable the healthy development of all individuals. Only in this way can we achieve a positive transformation of our cities and communities, bearing in mind the most vulnerable groups, since global population growth is overwhelmingly concentrated in marginal urban and surrounding periphery contexts, especially slums and informal settlements<sup>3</sup>. If we take into account the beginning of mobility from rural to urban areas, we go back to the beginning of the industrial revolution, a period between the end of the 18th century and the beginning of the 19th century, commonly known as the rural exodus. In this sense, rapid urbanization and the new availability of services and opportunities had a direct effect on poverty reduction<sup>4</sup>. However, turning our analysis to the current global context, urban development needs to have certain guarantees of sustainability. We must avoid at all costs that cities become a paradigm of unpredictability and unsustainability.

If practices are not carried out by states, urbanization can also have negative aspects such as increasing inequalities and discrimination, the growth of slums, and more and more people living under inadequate living conditions<sup>5</sup>. For this not to happen and for urbanization to be a positive tool for housing, urban development and planning must be regulated by the international community. This could be made by creating a common framework of protection that could take into account the fundamental rights of all individuals (see, for example, [HRBA and Slum Upgrading](#)), especially taking into

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<sup>1</sup>United Nations, Department of Economic and Social Affairs, Population Division (2019). World Urbanization Prospects: The 2018 Revision (ST/ESA/SER.A/420), in *Executive Summary*. Published in New York by United Nations, pp.xix. Available at: [UN World Urbanization Prospects 2018](#).

<sup>2</sup> Ritchie, H. (2018). *Urbanization*. Published online at OurWorldInData.org. Available at: [Urbanization](#)

<sup>3</sup> UN-Habitat (2003) The challenge of slums. Global Report on Human Settlements 2003, in 'Key findings and messages'. First published in the UK and USA in 2003 by Earthscan Publications Ltd for and on behalf of the United Nations Human Settlements Programme (UN-Habitat), pp.xxv-xxviii. Available at: [The Challenge of Slums](#)

<sup>4</sup> 6<sup>th</sup> Urbanization and Poverty Reduction Research Conference (2019). *People, Markets and Cities*. A conference organized by the World Bank, George Washington University-IIEP and the Inter-American Development Bank. Available at: [Urbanization and poverty reduction conference](#)

<sup>5</sup> See generally, OHCHR, *Urbanization and Human Rights*. See more: [OHCHR: Urbanization and HR](#)

account the housing challenges the world is facing today. One could say that, if there is something that has failed in terms of urbanization of cities, it is related in one way or another to housing. ‘The way housing is produced and consumed has shaped urban growth, unfortunately, in many cases, by creating fragmented, unequal, and dysfunctional spaces’.<sup>6</sup> The sustainable future of cities, and the outcomes of urbanization, will depend to a large extent on addressing and dealing with housing-related problems in the most appropriate way, treating it as what it is: a legally binding human right. Having placed the importance of the issue in question on the agenda of the international community, and taking into account the independence of states which derives from their sovereignty, it is expected that the same, at the national level, will invest in the creation of an integrated vision of housing in the framework of urban development.

The right to ‘adequate housing’ was recognized as part of the right to ‘adequate standard of living’, a provision that was included in international instruments such as the Universal Declaration of Human Rights of 1948 (Article 25) or the International Covenant on Economic, Social and Cultural Rights of 1966 (Article 11). Achieving quality of life in cities, requires infrastructure primarily, because an effective infrastructure, contributes to increasing the chances of economic prosperity and improving the quality of life of its inhabitants<sup>7</sup>. Every nation in the world has ratified at least one of the documents at the international level that protects the right to adequate housing (see CEDAW<sup>i</sup>, ICRMW<sup>ii</sup>, CRPD<sup>iii</sup>, CRC<sup>iv</sup>), emphasizing the commitment and importance of the realization of the same, especially, for the most vulnerable groups in society (women, migrants, persons with disabilities or children). It is particularly important to make governments understand that the right to adequate housing cannot be considered as a privilege but as a right in itself that, through commitment and dedication of states, can be realized in a given period. Highlighting the words of UN-Habitat on the unique role of adequate housing in urbanization again, “*Housing has been regarded as one of the most daunting challenges of urbanization, particularly conspicuous in view of the unprecedented proliferation of slums and informal settlements, manifested in cities as a result of inefficient policies and a chronic lack of adequate and affordable housing*<sup>8</sup>.”

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<sup>6</sup> United Nations Human Settlements Programme, (2015) *Housing at the centre of the New Urban Agenda*. Position Paper, October 2015. See *Introduction*, pp.3. Available at: [Housing at the Centre](#).

<sup>7</sup> UN-Habitat, World Urban Forum 6 (2012) Prosperity for Sustainable Cities: Balancing Ecology, Economy and Equity. Background Document, Version 3.0. In ‘*Conceptualizing the Prosperity of Cities*’, pp.3-4. Available at: [UN-Habitat: World Urban Forum 6](#).

<sup>8</sup> Ibid, in *Why do we need Housing at the centre?* 7.

To reveal the close relationship that the lack of adequate housing has with the achievement of planned and sustainable urbanization, the case of the favelas in Rio de Janeiro has been examined. This city is a metropolis with more than 6 million inhabitants, of which 1/3 lives in informal settlements or slums<sup>9</sup>, which do not comply with most of the elements that make up adequate housing (not security of tenancy; emerged informally from an unmet need for affordable housing; no government regulation, therefore, no registered; developed by residents, no outside help for infrastructure or resources; among others<sup>10</sup>). Taking into account the situation of the favelas in the geographical framework of the city of Rio, it is impossible to avoid the problem that the lack of adequate housing causes to the inhabitants, reducing their possibilities of development and favouring the marginalization of these individuals. While it is true that many conditions have been improved over the years, the problem of favelas persists and should be seen as a violation of human rights, in particular, the right to adequate housing but in general, deriving the lack of it into many other rights.

### Justification of the topic

Having considered the increasing attention given to the issue of urbanisation by major international actors, we observe the impact of the RTAH on the achievement of global goals (such as the Goal 11 from the Sustainable Development Goals<sup>v</sup>), that have been related to urbanisation and housing. If we consider housing as a significant element of urbanization, we can understand the positive implications of the realization of this human right, for the present and future of our environments. The research issue that underlies this thesis seeks to demonstrate how, for the realization of a human right, such as adequate housing, improved urban planning in cities is needed to avoid the marginalization of vulnerable groups. This is accompanied by the importance of demonstrating how, through a human rights-based approach and the location of these rights in a controlled and recognized context (and with the implication of local and municipal authorities), will help on the achievement of this right, and the dignification of the life of many city residents.

The right to adequate housing is a fundamental human right; it must be guaranteed by sovereign states and understood as such. Due to historical concerns about this right

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<sup>9</sup> See more information of the favelas provided by the NGO Catalytic Communities (CatComm), which is working towards the achievement of human rights (among other issues) within the favelas since 2000 [here](#).

<sup>10</sup> Williamson, T in Catalytic Communities: *A City Planner Responds: What is a Favela?* Available at: [Favela](#).

because of its realization and justiciability (see [State Obligations under ESCR](#)), it has been perceived by some as a privilege, being much more than that and belonging to a long list of rights that require action by states and their institutions (see [The role of human rights institutions on the protection of ESCR](#)). While maybe it is true that these rights have been associated with commitments in the long-term that might sound unrealistic, the new agenda for SDGs marks a turning point in this regard by establishing a political agreement to change. In conjunction with Goal 11 and the NUA (New Urban Agenda<sup>vi</sup>), the right to adequate housing has been placed at the centre of these strategies, with an essential human rights methodology for implementation that is able to understand the qualitative benefits of the same, while highlighting the importance of housing in the accomplishment of a global goal such as sustainable urbanization (see [From the MDGs to the SDGs](#)), and its implication in the achievement of other rights of the same nature. How human rights address the realization of the same, with an approach that understands discrimination and inequalities, offers a unique opportunity for change, realising that the enjoyment of this right is possible and under no circumstances should it be seen as a privilege for some but rather, as a fundamental human right for all.

### Methodology and Structure

Although initially, the idea of this work was to make use of another type of methodology, the current world crisis has meant that this research has been restructured, and it has been decided to use a deductive methodology, analysing the existing international literature and the mechanisms proposed to date, to understand the problems caused by the absence of adequate housing and urban planning in a local context as it is Rio de Janeiro. The methodology chosen is based on academic research, to describe and understand the current phenomenon of urbanisation and its relation with housing, making use of available data and mechanisms proposed at the international level. Furthermore, this more theoretical analysis is supported by a more concrete one with research focused on housing and urbanization in Brazil. This enables the localisation of human rights, the move from international commitments towards local needs; to transfer the rationality of international claims to a real and specific context such as the favelas: inadequate settlements that lack effective urban planning.

On that basis, the work has been structured in four fundamental sections. Firstly, the objective of Chapter I is to understand the right to adequate housing. To this end, the existing and most relevant legal sources in this regard, such as the International Covenant

on Economic, Social and Cultural Rights (ICESCR) and the Committee on Economic, Social and Cultural Rights (CESCR) General Comments, have been carefully reviewed and have helped to interpret and understand the obligations of States concerning this right and, above all, have clarified many doubts as to its meaning and importance. In addition to the understanding of the elements to be analysed with respect to this right (essential for clarifying misconceptions about its meaning), the possible limits of this right and the existing system of control for its realization have been analysed, as well as the close relationship that the fulfilment of this human right implies with other rights of the same nature. Subsequently, Chapter II is dedicated to the study of urbanisation, its uneven development, and its effect on the Global South with the proliferation of slums that do not meet the conditions of adequacy agreed in international commitments, among others. Moreover, in Chapter III, and having analysed these two phenomena (the right to housing and urbanization) separately, I establish a nucleus of union for both, thanks to the existence of international mechanisms. In this sense, the HRBA to urbanization proposed by international instruments is analysed, and more specifically, the emergence and introduction of the housing-related issues in these instruments as the main element for achieving sustainable urbanization; from the Millennium Goals to the Sustainable Development Goals, to reach the New Urban Agenda, which places housing at the centre of urban planning. In this sense, I have tried to approach the consequences that the lack of urban planning has brought for the sustainable urbanization of cities, as well as the effect of the same in the formation of slums. Chapter IV opens the door to further understanding the challenges of urbanisation and the lack of housing this phenomenon in the context of Rio de Janeiro's favelas, focusing on the urbanization of the global south as a phenomenon and explaining the current problems that arise in this city with informal settlements and slums, created by the lack of planning. In this sense, this chapter has been dedicated entirely to analysing the situation of the favelas of Brazil, with the objective of localizing human rights and transferring the global vision learned and its implications to a more visible local context. Taking into account that both the Brazilian constitution and the statute of the city of Rio provide for the right to housing (see [From the Federal Constitution of 1988 to the Statute of the City of 2001](#)), the impact caused by the lack of it is of particular interest, taking into account that the perpetuation of these informal dwellings is a visible phenomenon throughout the city. In this sense, the history of the formation of the favelas is explained, while also analysing the segregation and human transformation due to the marginalization of these individuals and their homes. Finally, a

brief analysis is provided of the domestic implementation of the right to housing, through observation of the Brazilian Constitution and the City Statute. In addition, some of the efforts that have been carried out in the city of Rio de Janeiro to improve housing adequacy through inclusive urban planning are also studied, with the aim of locating the problem we have been talking about, in a known context.

#### Constraints and future research

When I started the proposal for my thesis, I became interested in the urban issue of favelas and the inadequacy of their housing. Therefore, I contacted different academics related to the field of study with the aim of being able to make a research-field trip, at some point during the year, to help strengthen my theoretical analysis and to be able to contribute to the work, a local perspective of the relationship between these two phenomena. In March, I informed my supervisor of the idea of working with the Metropolis Observatory in Rio de Janeiro, but for obvious reasons, this study has not been possible, and I have had to settle for more academic and theoretical analysis. An attempt was made to analyse different favelas to study the level of adequacy of their housing but, and during the conduct of this study, I realized that 1) the information was not updated for all housing units, meaning that, some of the favelas have complete information and some other lack proper information, thus, data is not reliable; 2) much of this information belonged to the year 2010 and taking into account the progress of urbanization since then and the programs carried out, the impact of the same could not be observed with reliability. In addition, although not included in the work for ethical issues, conversations with people living in Rio were carried out and informed the thesis research. Although these interviews have been transcribed and translated, the methodology of this work did not correspond to them, in addition to the fact that they were informal interviews and without any kind of empirical reason. For these reasons, and given that the issue of the realization of the right to adequate housing, and its relation to urbanization has aroused great interest on my part, I would like to be able to study, in the future, the scope of the international policies proposed in this regard (such as the ones belonging to UN-Habitat), and their planning, implementation, and impact, in a local context such as the favelas of Rio de Janeiro.

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<sup>i</sup> CEDAW, Article 14(2)(h): « 2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right: (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity

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*and water supply, transport and communications.* » See more: Convention on the Elimination of All Forms of Discrimination against Women.

ii **ICRMW, Article 43(1)(d)**: *«1. Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to: (d) Access to housing, including social housing schemes, and protection against exploitation in respect of rents.* » See more: International Convention on the Protection of the Rights of All Migrant Workers and.

iii **ICRPD, Article 28(1)**: *«1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.* » See more: International Convention on the Rights of Persons with Disabilities.

iv **CRC, Article 27(3)**: *« States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.»* See more: Convention on the Rights of the Child.

v **Sustainable Development Goals (SDG)**: *«The Sustainable Development Goals are the blueprint to achieve a better and more sustainable future for all. They address the global challenges we face, including those related to poverty, inequality, climate change, environmental degradation, peace and justice. The 17 Goals are all interconnected, and in order to leave no one behind, it is important that we achieve them all by 2030.* » See more: Sustainable Development Goals.

vi **New Urban Agenda (NUA)**: *«The New Urban Agenda was adopted at the United Nations Conference on Housing and Sustainable Urban Development (Habitat III) in Quito, Ecuador, on 20 October 2016. It was endorsed by the United Nations General Assembly at its sixty-eighth plenary meeting of the seventy-first session on 23 December 2016. The New Urban Agenda represents a shared vision for a better and more sustainable future. If well-planned and well-managed, urbanization can be a powerful tool for sustainable development for both developing and developed countries.* » See more: The New Urban Agenda.

## CHAPTER I: ADEQUATE HOUSING AS AN ECONOMIC, SOCIAL AND CULTURAL RIGHT

The right to adequate housing presents a need for existence beyond a purely theoretical formulation, mainly because of its impact on today's society. This right is much broader in its characteristics than it might at first appear, and as the various aspects related to it are deepened, new facets and possibilities that were not addressed at first arise. It was therefore decided to examine this right from the point of view of urban planning, taking as a starting point the problem of housing in developing countries, where a large proportion of urban housing construction does not even merit the description of housing<sup>11</sup>. In this sense, I found interesting to research on how the international framework considers this right or how is raised, in order to know the obligations of the States with this type of rights (and to demystify possible doubts and false testimonies about them), as well as the possibilities of protection also at the international level, and the role of human rights institutions in the protection of this right. Furthermore, it has been considered essential to analyse and understand the elements that make up this human right in order to gain a better understanding of what is considered, legally and in practice, adequate housing. How else would it be possible to classify a home as inadequate if we do not know the characteristics of suitability that a home must have in order to be considered as such? Finally, the possible systems of claims (see [Limits on the Right to Adequate Housing: Is there a right to complain?](#)) that can be used in respect of this right are briefly mentioned, while establishing the link between the realization of this human right and the fulfilment and realization of other rights of the same nature. In general, the intention of this chapter is to increase the reader's understanding of the right to adequate housing, to highlight its contemporary importance and to clarify that it is not a right that can be ignored since housing represents a primary component of the realization of the right to an adequate standard of living. Furthermore, the impact that housing has on people's lives is multiplied by the various dimensions of this right, the achievement of which is essential to the attainment of human dignity, the dignity that is accomplished by meeting the basic needs of all individuals.

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<sup>11</sup> King, R., Orloff, M., Virsilas, T., Pande, T. *Towards a more equal city: Confronting the Urban Housing Crisis in the Global South: Adequate, Secure, and Affordable Housing*. Working Paper, pp.3-4. Available at: [Working Paper: Urban Housing Crisis in the Global South](#).

## State Obligations under ESCR

During the drafting process of the International Bill of Rights, the UN General Assembly, in the context of Cold War geopolitics, decided in 1951 to separate international rights in two different Covenants (that would specify rights and limitations), apart from the Universal Declaration on Human Rights, (to set forth general principles of human rights): Civil and Political Rights (CPR) and Economic, Social and Cultural Rights (ESCR)<sup>12</sup>. Despite the express distinction between both Covenant obligations made at the request of the international community (which is discussed below), both groups of rights should be considered in the same way and with the same importance since, in many cases, the realisation of one group of rights implies the need for the implementation of others<sup>13</sup>: ‘all human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis<sup>14</sup>.’

It could be said that the primary differentiation that was made with respect to these two documents is in Article 2(1) of both instruments<sup>vii</sup>. CPRs were considered absolute and immediate rights, 'easier' to apply and, therefore, and in a legal sense, justiciable, without too much involvement and effort on the part of the states<sup>15</sup>. On the other hand, the ESCRs were considered to be '*progressive achievement*, involving the same effort but '*to the maximum of its available resources*,' thus highlighting the character given to these rights. Moreover, the ICCPR (International Covenant on Civil and Political Rights), included the possibility of claiming, on an individual basis, the inability of governments to comply with the rights contained in the Convention. It was not until 2008 that the Committee on ESCR adopted the Optional Protocol for the acceptance of individual complaints on these rights.

However, despite the distinctions, the concept of '*progressive realization*' should not be interpreted as an absence of obligations where states should not protect this set of

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<sup>12</sup> A. Eide et al. (eds), *Economic, Social and Cultural Rights, A Textbook*, Second Revised Edition, Martinus Nijhoff Publishers, (2001), see *Chapter 2: A. Eide, Economic, Social and Cultural Rights as Human Rights*, pp. 9-12.

<sup>13</sup> *Ibid.*

<sup>14</sup> World Conference on Human Rights (1993) *Vienna Declaration and Programme of Action*. Published by OHCHR, par.5, pp.3. Available at: [Vienna Declaration](#).

<sup>15</sup> Michael J. Dennis and David P. Stewart (2004) *Justiciability of Economic, Social, and Cultural Rights: Should There be an International Complaints Mechanism to Adjudicate the Rights to Food, Water, Housing, and Health?* in *American Journal of International Law*, July, 2004. The American Society of International Law, published by ESCR-Net. Available at: [Justiciability Economic Social and Cultural Rights](#).

rights until they have sufficient resources. On the contrary and as explained by the Committee on its General Comment (GC) No.3, “[...] while the Covenant provides for progressive realization and acknowledges the constraints due to the limits of available resources, it also imposes various obligations which are of immediate effect [...].”<sup>16</sup>. Moreover, the Committee requires states ‘to take steps towards the achievement of ESCR, within a reasonably short time,<sup>17</sup>’ thus clarifying that progressive realization does not exempt countries from implementing imminent measures with a long-term objective; gradual realization will always be accompanied by an immediate obligation to take appropriate steps with the ultimate goal of achieving full effectiveness and compliance with these rights. Therefore, there is not a lack of action but a degree of discretion for states to establish the appropriate framework for the achievement of these rights. In this sense, the CESCR recognises that the realisation on these rights can be hampered by a lack of resources; thus, ‘generally not be able to be achieved in a short period of time.’<sup>18</sup>

However, the provisions of the Covenant set ‘a minimum core obligation to ensure the satisfaction of minimum essential levels of each of the rights contained,’ which is referred to as the *raison d’être* of the Covenant<sup>19</sup>. ‘The CESCR in this same GC defined the minimum core obligation as the threshold which all states must meet immediately<sup>20</sup>.’ Furthermore, and commenting on the *available resources*, as referred to in this same Article 2(1), the Committee emphasizes that “[...] even where the available resources are demonstrably inadequate, the obligation remains for a State party to strive to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances [...].”<sup>21</sup>. Again, the Committee clarifies that even though this resource constraint can be taken into account, it does not exclude governments from its minimum obligations, and ‘even in times of severe resource constraints, low-cost targeted programmes should take into account the most vulnerable groups of society<sup>22</sup>.’ In this sense, and even though the Covenant refers to the steps to be taken by *all appropriate means*, does not specify which

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<sup>16</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), 1990. *CESCR General Comment No. 3: The Nature of States Parties’ Obligations (Art. 2, Para. 1, Of the Covenant)*. General Comments. OHCHR, par.1 pp.1. Available at: [CESCR: GC. No3](#).

<sup>17</sup> Ibid [2] 1.

<sup>18</sup> Ibid [9] 3.

<sup>19</sup> Ibid.

<sup>20</sup> Nolan, Aoife and Porter, Bruce and Langford, Malcolm (2009) *The Justiciability of Social and Economic Rights: An Updated Appraisal*. CHR/GJ Working Paper No. 15, pp.30. Available at: [Justiciability of ESCR](#).

<sup>21</sup> CESCR General Comment No. 3 (n 10) [11] 4.

<sup>22</sup> Ibid [12] 4.

are these means but provides that all human rights are thereby respected<sup>23</sup>, imposing an obligation for states to take into account all groups of society, especially those who are most affected by the economic adjustments that have to do with these types of rights.

Apart from this, ‘human rights impose three types or levels of obligations on States Parties: the obligations to *respect*, to *protect*, and to *fulfil*, including the latter both an obligation to *facilitate* and an obligation to *provide*.<sup>24</sup> In this sense, ‘the obligation to respect requires states to refrain from interfering with the enjoyment of this rights; the obligation to protect requires states to take measures that prevent third parties to interfering with the enjoyment of ESCR; and the obligation to fulfil requires states to take steps to facilitate individuals and communities enjoying the right and, when an individual or group is unable to realise the right themselves, to provide what is necessary for the enjoyment of these rights<sup>25</sup>.’ ‘While the core content of the obligations is higher for states with more resources than those with less, all states must set benchmarks to move progressively beyond the core content and to harness the national resources for that purpose.<sup>26</sup>’

### The role of Human Rights institutions on the protection of ESCR

Human Rights institutions (national, regional, or international) can play a crucial role in the achievement (but more important) for the understanding and interpretation of ESCR. Even though the most notorious institution in this regard is the UN, and its specialized agency, UN-Habitat, we should not underestimate the role that other human rights institutions play in the interpretation, monitoring, observation, implementation, and enforcement of human rights law. In this sense, we have to take into account another element that is mentioned in this same Article 2(1). This final element takes into account the ‘*international assistance and cooperation*’ from which States could benefit to ensure that the resources allocated for the realization of these rights are sufficient, even in times of economic crisis. Thus, the ‘*available resources*’ referred to in Article 2(1), ‘was intended by the drafters of the Covenant to refer to both the resources existing within a State and those available from the international community through international

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<sup>23</sup> Ibid [8] 2-3.

<sup>24</sup> A. Eide et al. (eds) (n 8) 23.

<sup>25</sup> Nolan, Aoife and Porter, Bruce and Langford, Malcolm. (n 21) 22.

<sup>26</sup> A. Eide et al. (eds) (n 8) 27.

cooperation and assistance.’ Moreover, the Committee also highlighted that this cooperation for the full realisation of ESCR is an obligation of all states<sup>27</sup>.

Furthermore, ‘the essential role of such cooperation in facilitating the full realization of the relevant rights is further underlined by the specific provision contained [for example] in Article 11(1)<sup>28</sup>’ of the ICESCR, which concerns the right to an adequate standard of living: “*The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent*<sup>29</sup>.” In this regard, the obligations of states to comply with Article 11 include primarily the recognition of international aid for the implementation of measures that help improve the enjoyment of this and other rights. On the other hand, the Committee recognizes the importance of international assistance from international institutions such as the UN, especially in situations of economic crisis where austerity plans are carried out. In this sense, human rights institutions are especially important, adding a ‘*human face*’ to the planning and implementation of new economic policies, protecting the rights of the most vulnerable groups in society<sup>30</sup>.

The CESCR has also dedicated a GC in order to address the role of national human rights institutions (NHRI) in the protection of economic, social, and cultural rights. In this sense, the Committee highlights the special ability of these NHRI through which essential steps can be taken for the promotion and protection of human rights, being included in the provision of Article 11(1), and within the possibilities of ‘*all appropriate means*’.<sup>31</sup> Usually, these institutions enjoy an important degree of autonomy from the executive and the legislature and take full account of international human rights standards<sup>32</sup>. Without having to engage in international cooperation, these national instruments can be beneficial in localizing human rights, bringing them closer to the problem, and facilitating the monitoring and research of situations where human rights have been violated. Furthermore, the Committee notes the importance of these institutions in promoting and

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<sup>27</sup> Ibid [14] 4-5.

<sup>28</sup> Ibid [13] 4.

<sup>29</sup> UN General Assembly (UN GA), 1966. *International Covenant on Economic, Social and Cultural Rights (ICESCR)*. OHCHR, Article 11, pp.4. Available at: [ICESCR](#).

<sup>30</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), 1990. *International Technical Assistance Measures (Art. 22): 02/02/90. CESCR General Comment 2*. General Comments. OHCHR, par.9 pp.3. Available at: [CESCR: GC No2](#).

<sup>31</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), 1998. *General Comment No. 10: The role of national human rights institutions in the protection of economic, social and cultural rights*. General Comments. OHCHR, par.1 pp.2. Available at: [CESCR: GC No10](#).

<sup>32</sup> Ibid [2] 2.

ensuring the indivisibility and interdependence of all types of rights<sup>33</sup>. ‘Efforts to promote one set of rights should also take full account of the other, enhancing enjoyment of the full range of human rights<sup>34</sup>.’

### Housing as a Human Right

*Article 11(1). International Covenant on Economic, Social and Cultural Rights<sup>35</sup>*

- 1. The States Parties to the present Covenant recognize **the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing**, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.*

As we can observe, the human right to adequate housing is derived from the right to an adequate standard of living, thus, it is recognized by the international community as an essential ESCR. Moreover, it is interesting to note that the recognition of this human right is also addressed by other international human right instruments such as UDHR Article 25(1)<sup>viii</sup>, CEDAW Article 14(2)(h)<sup>36</sup> or CRC Article 27(3)<sup>37</sup>. However, the CESCR has clarified that even though ‘a wide variety of international instruments address the different dimensions of the right to adequate housing, Article 11(1) of the ICESCR is the most comprehensive and perhaps the most important of the relevant provisions<sup>38</sup>. I would also add to this that the work of the Committee on clarifying the obligations towards this right has been crucial to developing in a more holistic way, an understanding idea of what this right is, and what we should look at for the realisation of the same. As urban areas continue to increase in the world, the importance of this right is increasing at the same level.

More than half of the world now lives in urban areas<sup>39</sup>, and this trend does not seem to be decreasing in the following years. As a consequence of this urban growth,

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<sup>33</sup> Ibid [3] 2-3.

<sup>34</sup> CESCR General Comment 2 (n 32) [6] 2.

<sup>35</sup> International Covenant on Economic, Social and Cultural Rights (n 31)

<sup>36</sup> CEDAW Article 14(2) (n i).

<sup>37</sup> CRC Article 27(3) (n iv).

<sup>38</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), 1990. *CESCR General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*. General Comments. OHCHR, par.3 pp.1. Available at: [CESCR: GC No4](#).

<sup>39</sup> From UN: Department of Economic and Social Affairs, Population Dynamics. *World Population Prospects* (2018). See more: [UN World Population Prospects](#).

‘global trends of poverty and social exclusion will have a predominantly urban face in the present century. Particularly, the so-called megacities around the world, are rapidly becoming the scene of deprivation and social exclusion, especially in what has come to be called the global south<sup>40</sup>’. However, the CESCR highlights that while the problems regarding housing and urbanisation are often found in some developing countries which confront major resource and other constraints, significant problems of inadequate housing also exist in some of the most economically developed societies, raising the number of persons living in inadequate housing over one billion<sup>41</sup>. Thus, the right to housing should not be interpreted in a narrow or restrictive sense but rather, should be seen as the right to live somewhere in security, peace, and dignity; Article 11(1) must be read as referring not just to housing but to *adequate* housing<sup>42</sup>, and it is precisely this term referring to the adequacy of housing, from which numerous factors derive that must be taken into account in the realization of this right.

Moreover, it should be noted in this sense that the right to adequate housing does not require the State to build housing for the entire population but rather the obligation to guarantee that everyone’s housing is adequate<sup>43</sup>. In other words, the obligation of governments is to make sure that the available housing is indeed adequate for all groups of society. Additionally, and trying to solve some doubts on what the *adequacy* referred on the Covenant means, UN-Habitat clarified that ‘the right to adequate housing includes ensuring access to adequate services, thus, there must be sustainable and non-discriminatory access to facilities essential for health, security, comfort, and nutrition.<sup>44</sup>’ In conclusion, the obligations of Article 11(1) are not limited to the external adequacy of housing but refer to it in its most humane and comprehensive sense.

#### Elements on the Right to Adequate Housing

Although the adequacy of housing is somewhat challenging to define and determine, as conditions will depend on the economic, social and cultural context (among others) of the country in question, the CESCR has made it possible to identify certain common aspects of this right that must be taken into account for the enjoyment of the

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<sup>40</sup> K. Kooning, and D. Kruijtit, MEGACITIES: The politics of urban exclusion and violence in the global South, Zed Books, (2009), see *Introduction* by K. Koonings and D. Kruijtit, pp.1

<sup>41</sup> CESCR General Comment No. 4 (n 38) [4] 1-2.

<sup>42</sup> *Ibid* [7] 2.

<sup>43</sup> UN Office of the High Commissioner for Human Rights (OHCHR) and UN-Habitat, 2009. *Fact Sheet No. 21, The Human Right to Adequate Housing*, Fact Sheet No. 21/Rev.1, pp.6. Available at: [Fact Sheet No.21](#).

<sup>44</sup> *Ibid* 8.

same. 'The right to adequate housing contains freedoms that include the protection against forced evictions and demolition of one's home, prohibits the interference with privacy and family life, and determines one's residence. It also contains entitlements which include equal access to housing, the security of tenure, or participation in housing-related decision-making'<sup>45</sup>. However, for housing to be adequate, it must meet before and, at a minimum, a number of adequacy conditions. The CESCR has defined each of them on its GC No.4<sup>46</sup> as follows:

- a) *Legal security of tenure*, meaning that all persons should possess a degree of security of tenure, which guarantees legal protection against any type of threat that could lack the personal security of one's own house.
- b) *Availability of services, materials, facilities, and infrastructure*, meaning that access to basic resources and services must be a guarantee, and it is an essential part of a house to be adequate.
- c) *Affordability*, understanding that housing cannot be a threat to the achievement of other human rights, thus, the cost of housing must be proportional to the income of individuals. Housing cannot be conceived as a luxury but as a fundamental right without taking into account personal economic conditions.
- d) *Habitability*, in terms of providing adequate spaces that could guarantee the physical safety of individuals.
- e) *Accessibility*, with the intention of making housing accessible to all groups of society and taking into account the special needs of marginalized groups in terms of secure tenure but also, including access to land as an entitlement.
- f) *Location*, understanding that housing cannot be considered adequate if its location is an obstacle to working life, access to health services, education, or other types of resources for social or daily use. The location of your home cannot, under any circumstances, marginalize any sector of the population, nor can it reduce the ordinary development opportunities of individuals.
- g) *Cultural adequacy*, taking into account the expression of cultural identity.

The above-listed conditions, established and designed for better assessment of housing adequacy, provide a benchmark for governments to implement measures in the most effective manner. Moreover, these provisions clearly require States to take

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<sup>45</sup> Ibid 3.

<sup>46</sup> CESCR General Comment No. 4 (n 38) [8] 2-4.

progressive steps that take into account these necessary conditions. In this regard, the principle of non-discrimination is indispensable for the realization of the right to housing, ‘giving priority to those social groups living in unfavourable conditions by giving them particular consideration<sup>47</sup>’, thus, denial of housing for personal characteristics would breach not only the right to adequate housing but also the principles of equality and non-discrimination. That is why the ICESCR established the effective monitoring of the situation with respect to housing as an obligation of immediate effect, to control the measures being taken and to demonstrate if those are sufficient to realize the right in accordance with the maximum of available resources (bearing in mind in this regard that a state's resources are not limited to national budgets but that international assistance must also be taken into account).

While it is clear that the right to housing can cover many issues of concern, the Office of the High Commissioner for Human Rights (OHCHR) identifies four risk situations regarding housing: *forced evictions, displacement, homelessness, and poverty*. While all of these are important, each involves different focuses and measures, so it is crucial to work on the implementation of the right to adequate housing within the specific framework of each circumstance. In addition, it is important to take into account the different groups in society and, above all, those who are in situations of vulnerability with respect to the rest of the citizens. In this sense, the OHCHR, together with UN-Habitat, identifies seven specific groups to be taken into account for the implementation of the right to housing: *women, children, slum-dwellers, homeless persons, persons with disabilities, displaced persons and migrant, and indigenous people*.<sup>48</sup> In this sense, and because we are going to look at urbanisation processes and the introduction of a human rights-based approach on the same, we would focus our attention on the right to housing approach to slums and informal settlements, and therefore, slums-dwellers within the metropolis.

#### Limits on the Right to Adequate Housing: Is there a right to complain?

Although the right to adequate housing is not a right in itself but is derived from the provision of the right to an adequate standard of living (Article 25(1) UDHR or Article 11 ICESCR), it is possible to claim the violation of this right through the international mechanisms created to carry out these functions. While it is true that violations of this

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<sup>47</sup> Ibid [11] 5.

<sup>48</sup> OHCHR, Fact Sheet No. 21 (n 43) 16-28.

right differ greatly (due to the complexity of the right and its elements), most of them are related to forced evictions (see [CESCR Jurisprudence](#)). However, and although it is an issue that will not be deepened because it does not make sense (or fit) within the structure of this work, it is important to know the mechanisms available and how they work.

As it is enshrined on the ESCR, the principal way of monitoring the effective implementation of this right is making use of the work of the Committee. This body of 18 experts that monitors the Convention was established under UN GA Resolution 1985/17 of 28 May 1985, to carry out the monitoring functions assigned to UN Economic and Social Council (ECOSOC) regarding the Covenant; in the first place, a special Committee like the one that exists today was not mentioned in the ICESCR. Although there are some ways of checking the compliance with the Covenant, the most usual one is the reporting system<sup>49</sup>; all states parties are obliged to submit regular reports to the Committee on how the rights are being implemented (within two years after accepting the Covenant and then, every five years). It is essential to take into account that this system of review addresses its concerns and recommendations in the form of concluding observations, making this reporting system as a constructive dialogue between the members of the CESCR and the State delegation. This reporting system takes into account the articles by clusters (or groups of articles), to make sure all critical issues are being addressed.

Usually, the members of the Committee would raise questions and comments to the state in question, and then this same state would have the opportunity to reply immediately to items that do not require further reflection or research. NHRIs and NGOs can also take part in the reporting process and ask questions on issues they may find relevant through the use of '*shadow reports*,<sup>ix</sup>' whereby the Committee can have some information that the government in question does not want to share or provide. The purpose of this reporting system is to establish a dialogue for change, which ends with a document published by the Committee that concludes this last phase with the publication and adoption of concluding observations, forwarded as soon as possible to the State party concerned and making it public. Another work that is carried out by the Committee is the writing of General Comments, that often includes the Committee's interpretation of the provisions of the Covenant on ESCR, to continue assisting state parties with its

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<sup>49</sup> See more on the work of the Committee (CESCR) on its webpage [here](#).

implementation and to make the experience gained by the state's reports, available for the benefit of all state parties. It should be clarified that none of these options that the Committee has for reviewing the implementation of the Convention are of a binding nature. Despite this, the work and experience of the Committee must be taken into account when transforming the rights agreed upon in the Convention into reality. While it is true that the Committee will not impose sanctions, concluding observations should be taken into account for the next review, advocating for change and improvement.

And regarding the right to complain within the Committee, we can mention two different ways of assessing violations of rights contained on the ICESCR: inter-state complaints and individual ones. By adopting the Optional Protocol in 2008, the GA Resolution 63/117 established the competence of the Committee to receive and consider communications. As stated in Article 1(2) of this Protocol, only communications from States that are Parties to the Convention and to this Protocol will be considered, but communications from States that have not ratified the 2008 Protocol will not be considered<sup>50</sup>. As of today, there are twenty-four States Parties that have ratified this document. In Article 2, the Protocol clarifies that “*communications may be submitted by or on behalf of individuals or group of individuals [...] with their consent unless the author can justify acting on their behalf without such consent*<sup>51</sup>”. Thus, victims of human rights violations can submit their own claims, but also NGOs or other relevant agents may do it.

It is important to note that, although the conditions of admissibility (reflected in Article 3 of this document) have been met, the Committee may, if necessary, decline to consider a communication where it does not reveal that the author has suffered a clear disadvantage unless the Committee considers that the communication raises a serious issue of general importance<sup>52</sup>. When examining communications under the Protocol, “*the Committee shall consider the reasonableness of the steps taken by the State Party [...] In doing so, the Committee shall bear in mind that the State Party may adopt a range of possible policy measures for the implementation of the rights [...]*<sup>53</sup>”. Even if the problem in question has not been completely eradicated, the Committee will always take into

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<sup>50</sup> UN General Assembly (UN GA), 2008. *Optional Protocol to The International Covenant on Economic, Social and Cultural Rights*. General Assembly Resolutions. OHCHR, Article 1(2), pp.2. Available at: [ICESCR Optional Protocol](#).

<sup>51</sup> Ibid (Article 2) 2.

<sup>52</sup> Ibid (Article 4) 3.

<sup>53</sup> Ibid (Article 8) 4.

account the actions are taken so far, which is very important due to the '*progressive*' nature of these rights. It is also important to note that the Committee's competence for states that have ratified this protocol extends to the implementation of interim measures, "*after the receipt of communication and before a determination on the merits has been reached*"<sup>54</sup>, "as well as the possibility of establishing inquiry procedures "*if the Committee receives reliable information indicating grave or systematic violations by a State Party*"<sup>55</sup>."

In addition to the functions of the Committee described above with regard to monitoring the implementation of the Convention, the UN protection system as a whole (included at the international level) should be highlighted. In this sense, the Universal Human Rights Index (UHRI) has been designed as a tool to help states follow up on these recommendations for effective compliance, including in its database the treaty bodies established under the international human rights treaties, as well as the Special Procedures and the Universal Periodic Review (UPR) of the Human Rights Council<sup>56</sup>. On the other hand, regional treaties are also important for the implementation of these types of rights. In this regard and giving an example from the European level, the Additional Protocol to the European Convention on Human Rights (ECHR), which was adopted in 1952, adding the right to the protection of the private property is noteworthy. In addition, and within the legal framework of the Council of Europe, in 1965 (and subsequently revised in 1996), the European Social Charter came into force, considered to be the counterpart of the ECHR in the field of ESCR. In this sense, the right to housing was included in Article 31<sup>x</sup> of this document, as well as in other provisions of other articles (see Articles 15<sup>xi</sup>, 16<sup>xii</sup>, 23<sup>xiii</sup>, and 30<sup>xiv</sup>), highlighting the fundamental role that the right to adequate housing plays in shaping ESCR. To facilitate the implementation of these provisions, the European Committee of Social Rights has been established to rule on the conformity of national law and practice with the Charter, examining the situation in the countries concerned and deciding whether or not the situations are in conformity with the Charter<sup>57</sup>. Moreover, the Committee can adopt conclusions in the framework of the reporting procedure and decisions under the collective complaint procedure.

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<sup>54</sup> Ibid (Article 5) 3.

<sup>55</sup> Ibid (Article 11) 6.

<sup>56</sup> See more about this UHRI, what it is and how it works [here](#).

<sup>57</sup> See more on Rules of procedure of the Committee [here](#).

### Adequate Housing and the realisation of other Human Rights

Both Covenant's Rights are universal, indivisible, independent, and interrelated, and they must be implemented using a system of fairness and equality balance<sup>58</sup>. Moreover, the right to housing is a good example that shows the overlapping of rights between ESCR and CPR; for ESCR to be realised you must be able to achieve some CPR and vice versa. The new processes of urbanisation are shaping human life, thus, not only are the cities being rebuilt, but also human settlements are being transformed. However, this urbanisation is not only visible on the surface but is also reflected in the way that society is organising as a whole, and these changes are really affecting human lives. In this sense, the growing mobility and urban growth within cities (as economic agents of progress and development), creates a population surplus for the little adequate housing available in the cities. Due to the lack of housing, informal settlements are increasing, while slums continue to grow in the same conditions, as it is the most affordable way of living but not the most adequate one.

*Slums and informal settlements* have been an integral part of urbanisation over the last few decades. These citizens are especially vulnerable groups to ESCR, suffering from the violation of the right to adequate housing in many of its characteristics, starting with the security of tenure, lack of affordable housing, habitability and the inequalities of the locations of these slums, thus limiting access to essential goods and services. Due to increasing urbanization and mobility to cities, the number of people currently living in these slums has risen in recent years to one billion, and although these numbers have been reduced by improving conditions in many developing countries between 2000 and 2014<sup>59</sup> (from approximately 39% to 30%), these same conditions remain inadequate, and the proliferation of informal settlements continues, increasing poverty and inequalities within cities.

The world slum, according to UN-Habitat, refers to the definition that classifies a slum household as one in which the inhabitants suffer one or more of the following '*household deprivations*': lack of access to an improved water source, lack of access to improved sanitation facilities, lack of sufficient living area, lack of housing durability and

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<sup>58</sup> Vienna Declaration and Programme of Action (n 12) [5] 3.

<sup>59</sup> UN-Habitat (2016) World Cities Report 2016: Urbanization and Development - Emerging futures, found in '*Chapter 1: From Habitat II to Habitat III. Twenty years of urban development within 1.1 The Beginnings*'. Available at : [World Cities Report 2016](#)

lack of security of tenure<sup>60</sup>. The absence of housing that meets the appropriate conditions affects not only the personal dignity of all individuals but also limits their opportunities for development. Many of these informal settlements do not have a fixed address, so the people who live there no longer have access to the basic services that require this information. In addition, and due to the continued marginalization of these neighbourhoods, the possibilities of accessing a job, or having available quality education, are reduced by the violation of this right and the elements that have been set to comply with the right to housing. The way in which urbanization is carried out affects the lives of many people. To meet sustainable development goals as well as to reduce inequalities in urban environments, the right to adequate housing needs to be also realized for slums and informal settlements. If the quality of life in these areas continues to worsen as urbanization does, we will be encouraging the continuation of this cycle of poverty and marginalization, involving generation after generation. However, although this trend is more evident in the southern part of the world, it is a mistake to think that it only occurs in developing countries. The phenomenon of urbanization has developed (and continues) in all countries of the world, which means that inequality gaps and lack of adequate housing are a fact that affects us all.

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vii **ICESCR Article 2(1)**: « *Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.* »; **ICCPR Article 2(1)**: « *1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.* » See more: ICESCR & ICCPR.

viii **UDHR, Article 25(1)**: « *Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.* » See more: UDHR.

ix **Shadow Reporting to UN Treaty Bodies**: « *It is an important tool for NGOs supporting human rights. By submitting a shadow report to a UN treaty body committee, NGOs can highlight issues not raised by their governments or point out where the government may be misleading the committee from the real situation. Shadow reports may be presented to all of the human rights treaty monitoring bodies. They may address the specific treaty articles or specifically mirror the country's common core document (CCD). Shadow reports may also be provided to the Human Rights Council for the Universal Periodic Review (UPR).* » See more: Shadow Reports.

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<sup>60</sup> UN Habitat, *SLUM ALMANAC 2015/2016. Tracking Improvement in the Lives of Slums Dwellers*. Prepared by the PSUP Team Nairobi. UNON, Publishing Services Section, Nairobi, pp.2. Available at: [Slum Almanac 2015/2016](#).

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<sup>x</sup> **European Social Charter (Revised), Article 31:** *«With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed: (1) to promote access to housing of an adequate standard; (2) to prevent and reduce homelessness with a view to its gradual elimination; (3) to make the price of housing accessible to those without adequate resources. »* See more: European Social Charter (Revised).

<sup>xi</sup> **European Social Charter (Revised), Article 15(3):** *«With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular: to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure. »* See more: European Social Charter (Revised).

<sup>xii</sup> **European Social Charter (Revised), Article 16:** *«With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means. »* See more: European Social Charter (Revised).

<sup>xiii</sup> **European Social Charter (Revised), Article 23(2)(a):** *«With a view to ensuring the effective exercise of the right of elderly persons to social protection, the Parties undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular: to enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of: a provision of housing suited to their needs and their state of health or of adequate support for adapting their housing. »* See more: European Social Charter (Revised).

<sup>xiv</sup> **European Social Charter (Revised), Article 30(a):** *«With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake: a to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance.»* See more: European Social Charter (Revised).

## CHAPTER II: URBANISATION AND URBAN GROWTH

Back in 1960, the political scientist Lucian Pye stated that ‘urban life is the dynamic basis for most of the activities and processes we associate with modernity and economic progress,’ as urbanization was understood as a natural consequence of industrialisation<sup>61</sup>. But this urbanization that was not being planned was creating spatial inequalities, in most of the cases, so that the city was growing naturally, together with the new housing demand. As cities began to be felt as drivers of development and new opportunities, in 1976 the world states decided to hold the first conference on Human Settlements with two significant outcomes: the Vancouver Declaration and Plan of Action, ‘to commit to human settlements policies which combine spatial planning with elements of economic, social and scientific thinking in order to alleviate the worst conditions of “uncontrolled urbanization” within a framework of social justice,<sup>62</sup>’ and the establishment of a global agency, part of the UN, specialized in urbanization and Human Settlements, named UNHHSF. The second conference regarding urbanization and human settlements came twenty years later, and it took place in Istanbul. Habitat II took place at a time of global change when new challenges demanded global attention. ‘While in 1975 only 37% of humanity lived in towns and cities, this rate has risen to 45% in 1995, [...] and this trend is likely to continue [...] with enormous implications for the world economy, for social conditions, as well as for the state of the world environment<sup>63</sup>’.

This new development on population growth and mobility in cities did not occur at the same time or in the same way in all continents of the world. While it is true that industrialization provided unprecedented urban growth, new growth trends in cities disrupted urban settlements, diminishing the capacity of cities to accommodate more individuals, mainly due to lack of planning. ‘As a result, new forms of urban poverty emerged, manifested through poor housing conditions, insecure land tenure, and homelessness, among others<sup>64</sup>.’ It is important to mention in this sense that the UN-Habitat ‘Global Report on Human Settlements<sup>65</sup>’ from 1996, also included a review of the

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<sup>61</sup> Fox, S and Goodfellow, T (2016) Cities and Development. Routledge Perspectives on Development, within ‘Development in the first urban century’. 2nd edition, pp.23.

<sup>62</sup> World Cities Report 2016 (n 57) 3.

<sup>63</sup> UN-Habitat (1996) *An Urbanizing World: Global Report on Human Settlements*. Published by Oxford University Press. Available at: [Global Report 1996](#).

<sup>64</sup> Ibid.

<sup>65</sup> Global Report on Human Settlements (n 58).

housing problem. Although the review was not focused on the human aspect of the problem, this issue was taken into account among the main problems that growing urbanization was causing.

### **Inequality and patterns of urban growth**

In recent years, the world has entered a new era, characterized by the vitality and growth of cities, so it is not surprising that the New Urban Agenda 2030 and the Sustainable Development Goals, included among its main objectives the adoption of measures dedicated explicitly to the urban improvement of cities. According to studies carried out by UN-Habitat, the agency specialized in urban planning and development, not only reveal that the growth of cities will continue but also demonstrate that the current lack of urban planning will have consequences that can damage the quality of life of citizens in particular, and the well-being of the planet in general<sup>66</sup>. However, the process of urbanization did not occur equally in all parts of the world. While growth in the oldest cities in Europe and North America accelerated in the 19th century, most reached their peak by the mid-20th century, hitting their current sizes by 1950<sup>67</sup>. Other regions of the world have seen their cities grow most significantly since the 1950s: Tokyo's wider metropolitan region grew by more than half a million inhabitants each year between 1950 and 1990, Mexico City and São Paulo by more than 300,000 each per year, and Mumbai by around 240,000 per year<sup>68</sup>.

According to studies carried out by Professor Ricky Burdett, he points out that at the same time that urbanization increased in different ways throughout the planet, in the same way, these new urbanization patterns brought along differences in the distribution patterns of inequality<sup>69</sup>. In a certain way, this makes sense, since although in all the cities of the world we can observe specific disparities, it will be more noticeable in those states that have fewer resources to demystify this inequality or, failing that, in the cities that must unpredictably accommodate more individuals. In this sense, we observe that the population does not grow at the same rate in all parts of the world, for example, in developed nations, the total increase in urban population per month is 500,000, compared to 5 million in the developing world, meaning that the growth of cities in the developing

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<sup>66</sup> World Cities Report 2016 (n 59) 123.

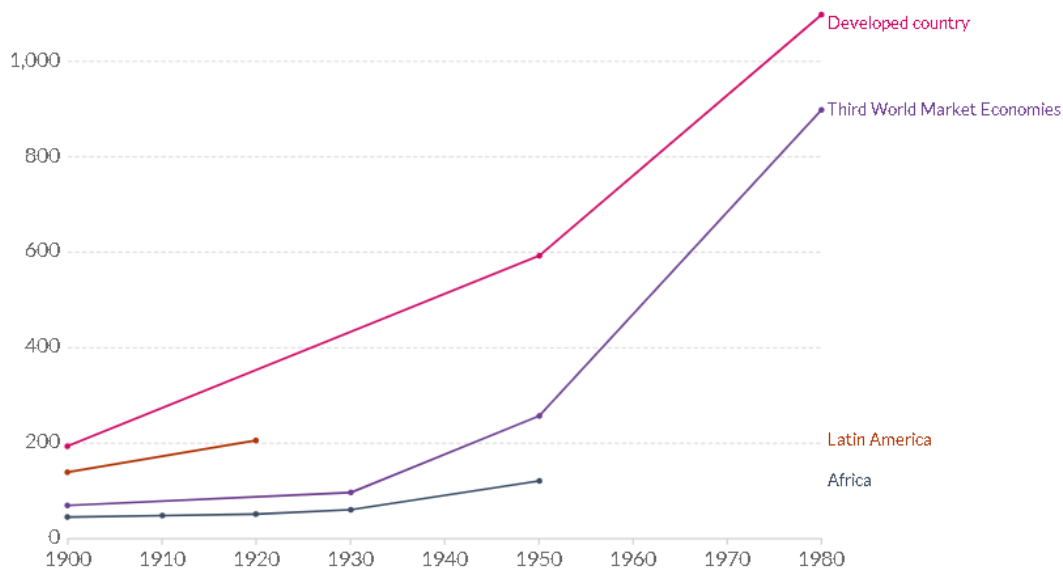
<sup>67</sup> UNDP, The International Policy Centre for Inclusive Growth (2016) Policy in Focus, A new urban paradigm: pathways to sustainable development in *'Inequality and patterns of urban growth by Ricky Burdett'*, Volume 13, Issue No.3, pp.7. Available at: [Inequality and urban growth](#).

<sup>68</sup>Ibid.

<sup>69</sup> Ibid.

world is ten times that of cities in the global North. Annually, cities in the developing world grew at a rate of 2.5 percent in the 1990s, compared to an annual growth rate of 0.3 percent in the developed world<sup>70</sup> (that experienced a similar pattern of population growth years before). To support these theories on population growth, which led to the creation of urban centres, let's see the results in a graphic way below.

**Figure 1. Growth of cities worldwide from 1900 to 1980.**

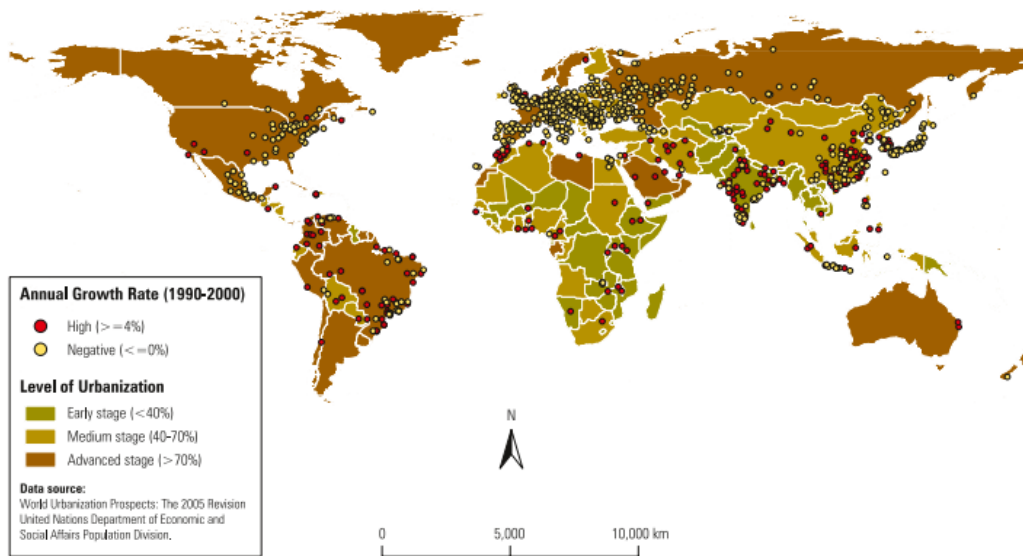


Source: OurWorldinData

As we can see in this chart, we observe that during the 20th century, the growth in the number of cities over time and the total population size of cities experienced an increase only in developed countries or, in other words, the northern part of the world. On the other hand, we observe that the southern part of the world, represented by the Latin American and African continent, hardly experienced any growth in cities and therefore, no urbanization, mainly due to the fact that the economic growth of these southern countries did not reach until the last period of the 20th century, to continue its growth in the 21st century.

<sup>70</sup> UN-Habitat (2007) State of the World's cities 2008/9 in '*1.2 Urban Growth Patterns*', pp.11. Available at: [Urban Growth Patterns](#).

**Figure 2. Growth of cities worldwide from 1990 to 2000.**



Source : UN-HABITAT Global Urban Observatory

On the other hand, and as we can see in Figure 2, although until 1980, urban growth was concentrated in the northern hemisphere of the world, since 1990, this trend has moved to the southern hemisphere. The red circles represent the annual increase in population in the cities, while the yellow circles show us negative growth rates, which means that during those ten years, the continents of Europe and North America did not experience this growth, but remained static or suffered negative growth, partly because of the low levels of natural population increase and declining fertility rates<sup>71</sup>. This urban transition, which occurred at different points in time, depending on the level of development of the countries, reveals that in the last 30 years, more cities in the developed world shrank than grew. From 1990 to 2000, 4 cities out of 10 in the developed regions experienced a population loss. In contrast, only 6 out of 100 cities experienced a rapid growth rate<sup>72</sup>.

### The Global South

While in the cities of the European continent, the great growth culminated in the 20th century, many developing countries began to experience growth from this same century, experiencing in turn, the consequences of globalization and the new world that was taking shape after the cold war. Although the term Global South can be analysed from various critical perspectives with respect to the arguments forged by the capitalist

<sup>71</sup> Ibid 12.

<sup>72</sup> Ibid.

countries of the North, traditionally, the term has been used to refer to economically disadvantaged nation-states and as an alternative to the term 'third world'<sup>73</sup>. While it is true that the reference to these countries can be considered as a discriminatory approach, the term has also been used by various international organizations such as the United Nations Development Programme (UNDP). However, when referring to population growth and global urbanization, this reference helps us to look at the maps and analyse the data from another perspective, making use of North-South comparisons, without, of course, falling into the fallacy of qualifying all the countries of the South equally when it is true that they present characteristics of differentiation between them. As mentioned at the beginning of this chapter, in Europe and North America, urban growth occurred during a period of industrialization and economic growth. However, the global south environments experienced this change later, characterized by globalization, economic restructuring, and state transformation.

In developing countries, urbanization has been structured and accelerated around colonial relations. Exogenous factors, such as the policies promoted by major international institutions and the impacts of globalization, have also shaped urbanization in developing countries<sup>74</sup>. And because of this urban variation between nations and the differences in the level of industrialization (which, as we have seen, is encouraged by urban planning), the challenge is now to focus on these new urban axes, with the aim of establishing sustainable and progressive urban systems that do not exclude the impoverished. The existence of new urban environments in cities is an entry point to new opportunities for those who are seeking better living conditions. Urban planning highlights the importance of housing as a necessity for people's safety, sanitation, and to live a full and dignified life. In addition, the possible lack of planning due to the uncertainties of change and globalization, have created an urgent need for housing in this part of the world, many times, promoting the creation of slums because of the immediate need to have a place to live, most of the times, settling for housing that does not meet the requirements of adequacy.

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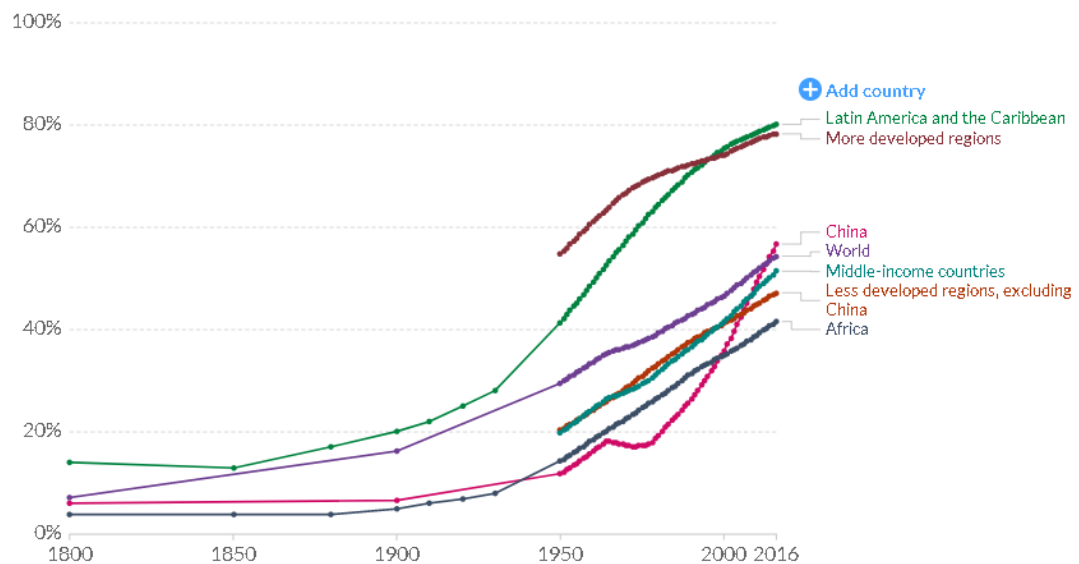
<sup>73</sup> Garland Mahler, A (2017) *Global South*. Published by Oxford Bibliographies in Literary and Critical Theory. Available at: [Global South](#).

<sup>74</sup> Haslam P, Schafer J, and Beaudet P, *Introduction to International Development*. Third Edition, Oxford University Press Canada, pp.377.

### Urban change in developing countries

According to recent studies by UN-Habitat, the population of developing countries is estimated to grow to 5.3 billion by 2050, assuming that 95% of the world's urban population will be in the cities of these countries. And while not all cities will grow at the same rate, the population will remain concentrated in the most populous cities, which, although they are growing more slowly, continue to grow every year. However, as the study shows, the concern is not the speed of growth but the increase itself, since, for example, the city of Dhaka (capital of Bangladesh) will need 12 years to absorb 8 million additional inhabitants, something that took New York City 150 years to achieve. And although urbanization is a continuous process, studies also point out that while the processes of urbanization are endless and the future is an urban world, many cities in these developing countries have also experienced population declines, which may explain the concentration of population in some cities and not in others, because of the more advanced state of their economies, and the security this provides for individuals. This process can be seen in the following image, which shows us the prospects for urbanization in the past, and up to the year 2016<sup>75</sup>.

**Figure 3. Process of urbanization from 1800 until 2016.**



Source: OurWorldinData

As we have been talking about, and despite the fact that population growth is motivated by the processes of urbanization (the more urbanized cities there are available to accommodate people, the more population concentration will occur in these

<sup>75</sup> Urban Growth Patterns (n 64) 15-16.

environments), this graph shows us the difference between these two trends. While it is true that developing countries have experienced a later growth (in terms of population and urbanization) than developed countries, urbanization trends are lower in these same states. This has to do mainly with the economic possibilities and expenditure on urbanization that each country has decided to allocate, innovation, availability of infrastructure, etc. In the case of Africa, for example, we observe that although the rate of change of the urban population of Africa is the highest in the world, its urbanization (although increasing) is below many countries of the Global South. This is because the region is at the early stages of its urban transition, with an urban growth rate of 3.3 per year between 2000 and 2005, while the world's growth rate for the same period was estimated at 2.5 percent. Furthermore, and in order to understand this phenomenon a little more, it should be noted that the most distinctive urban characteristic of the African region is the presence of high concentrations of people and economic investment in the largest city of each country; in most cases, the capital. This phenomenon, known as '*urban primacy*,' characterizes urbanization in Africa today, as it has in Latin America and the Caribbean in recent decades<sup>76</sup>.

As regards the Latin American issue, as we can see from the graph, it is the most urbanized region of the developing countries, with 77% of its population already living in urban areas. In spite of this trend, the growth of the urban population began to decrease since 1980, going from a growth of 4.6% per year in 1960 to one of 1.7% in 2005. The 'urban primacy' that we spoke of with respect to the African continent characterized Latin America and the Caribbean throughout its urban transition, with a large proportion of the urban population residing in the continent's largest cities<sup>77</sup>. 'In 2000, one-fifth of the region's total urban population lived in cities of 5 million or more, most of which were national capitals (compared to 18 percent in Asia or 15 percent in Africa). Moreover, among the 14 most populous urban agglomerations in the world, four are in this region (São Paulo, Mexico City, Buenos Aires, and Rio de Janeiro)'<sup>78</sup>. However, despite the massive urbanization on this continent, it should be noted that while population growth in urban areas has remained static in recent years, poverty levels, particularly in urban regions, have increased, revealing a lack of improvement in the living conditions of the

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<sup>76</sup> Ibid 17-19.

<sup>77</sup> Ibid 22.

<sup>78</sup> Ibid.

general population. The region continues to have the highest income inequality in the world, in addition to the continued growth and the prevalence of slums<sup>79</sup>.

#### Urban Slum Formation

*'Slums have the most intolerable of urban housing conditions, which frequently include: insecurity of tenure; lack of basic services, especially water and sanitation; inadequate and sometimes unsafe building structures; overcrowding; and location on hazardous land. In addition, slum areas have high concentrations of poverty and of social and economic deprivation, which may include broken families, unemployment and economic, physical, and social exclusion<sup>80</sup>.'*

Despite the existence of different types of inadequate or informal housing, the definition that UN-Habitat has developed includes the necessary elements to be considered about housing deprivation. 'These living conditions are the characteristics taken into account when assessing the situation of a household, regardless of its name. In this case, the definition is more relevant than the term<sup>81</sup>.' The definition is, therefore, essential for measuring the realization of the human right to adequate housing. Having analysed the patterns of urban growth and the inequality that accompanies them, we observe how urbanization has changed growth patterns and how the lack of planning has led to the creation of more slums and their perpetuation, due in part to the inability of local authorities to plan and provide affordable housing for low-income segments of the urban population. Informal housing and slums are, therefore, presented as a housing solution for this low-income urban population. In mega-urban regions, part of the problem would lie in coordination between different authorities responsible for economic development and urban planning, and better coordination and cooperation between national Governments and municipal institutions. Although geographical location is a common factor in the formation of slums, they are easily differentiated by the effects of their culture, history, politics, or even their topography.

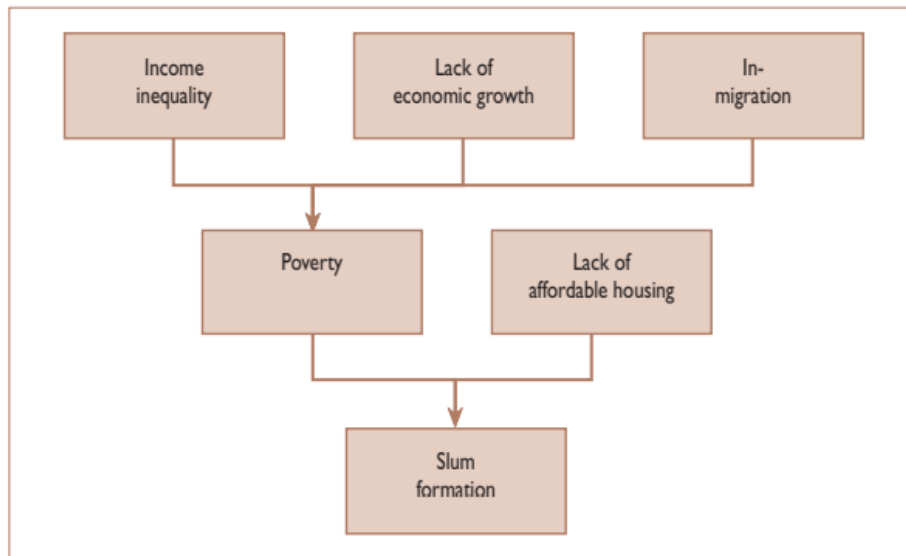
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<sup>79</sup> Ibid 21-23.

<sup>80</sup> The challenge of slums (n 3) in 'Introduction' vi.

<sup>81</sup> UN-Habitat (2015-2016) Slum Almanac, Participatory Slum upgrading programme. Prepared by the PSUP Team Nairobi, in 'Chapter 01. Acknowledging Slums: The Continuity of the Slum Indicator in the World's Development Agenda - MDGs, SDGs and the NUA', pp.2. Available at: [Slum Almanac](#).

**Figure 4. The process of slum formation.**



Source: UN-Habitat, Global Report on Human Settlements 2003

As UN-Habitat explains through this figure, we see that indeed, the formation of these slums is the result of a combination of poverty or low income with deficiencies in housing provision systems, so that people with low income are forced to seek affordable but inadequate housing. Moreover, the persistence of these patterns means that urban poverty is increasing through a combination of economic stagnation, rising inequality, and population growth, with the growth also brought about by immigration<sup>82</sup>. In this sense, what makes slums an alarming global urban phenomenon is the level of poverty, deprivation, and perpetual socio-spatial exclusion to which these individuals are subjected, a condition that affects not only human dignity but also has an impact on the overall prosperity of cities<sup>83</sup>.

Today, at least 1/4 of the total urban population resides in slums, which for developing countries amounts to approximately 880 million people in these conditions<sup>84</sup>. Using these very illustrative maps, we see that the perpetuation of this housing inadequacy continues to occur in the southern part of the world, or, consequently, in developing countries. Thus, we see that the minimum percentage of people living in this type of housing does not go below 20% and manages to reach 90% in some cases such as

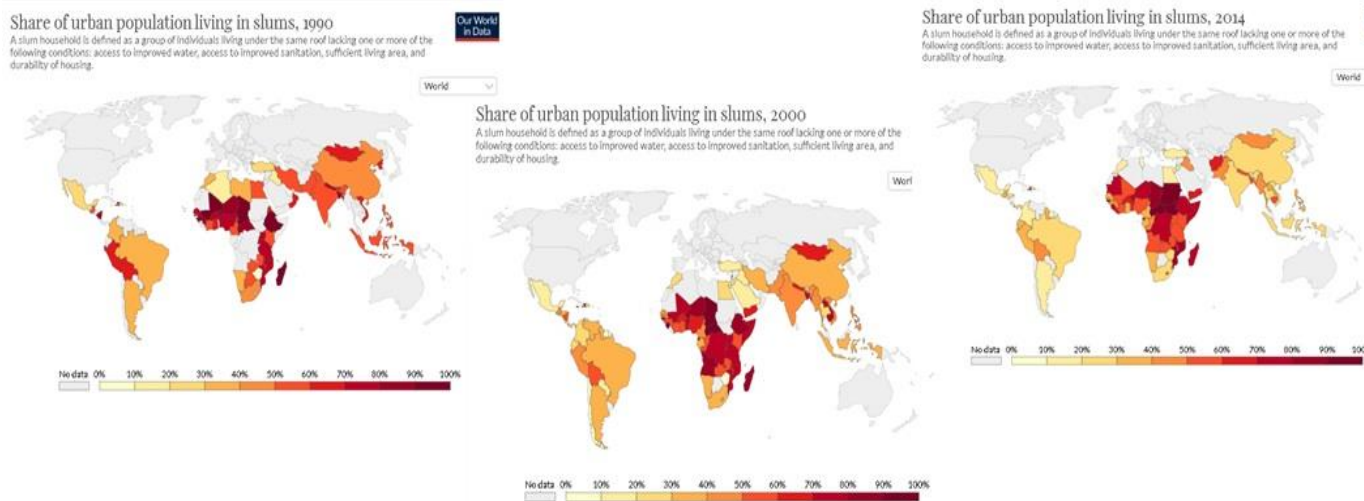
<sup>82</sup> The Challenge of Slums (n 3) in 'Chapter 2: Urbanization and forces shaping Slums', 17.

<sup>83</sup> Slum Almanac (n 73) 4.

<sup>84</sup> Ibid, in 'Chapter 2. Life in Slums: Understanding the Challenges and Realising the Potential of the People Living in Slums', 8.

Sudan or the Central African Republic. However, despite the prevalence of this urban phenomenon, it must be recognized that, over time, for most countries, the proportion of the urban population living in slums has been declining.

**Figure 5. Change in urban population living in slums from 1990 until 2014.**



Source: OurWorldinData

Not only urbanization, but the growth of cities itself, posed a challenge to the organization of adequate housing, with an emphasis on large-scale public plans to build low-cost, affordable housing. As it became clear that such schemes could not meet demand and could not be managed in such a way that those most in need were the primary beneficiaries, and placing the State as the leading agent for housing provision, public housing declined as a policy option. And as public housing declined, informal settlements proliferated<sup>85</sup>. Although the mobility of people to slums has been reduced over the years, especially in those countries where local urban policies have been implemented to improve housing conditions (see Brazil, for example, [Evolution in Favela Policy: Miña Case Miña Vida](#)), this urban phenomenon still requires coordinated efforts and effective policies, as well as a more significant effort on the part of local governments in cities. It is illogical to think that housing conditions will adapt on their own when a recession is not yet estimated for urban growth, which will cause, one way or another, an increase in the demand for housing in urban centres.

While the process of slum formation and informal settlement has been different around the world, the inadequacy of housing and the accompanying deficiencies are

<sup>85</sup> World Cities Report 2016 (n 60) in '1.4 The Continuous Growth of Slums' 13.

common to all of them. As for their future, it is clear that they cannot be considered as solutions to homelessness, but rather as a problem for their residents, who are forced to live in environments that do not meet any kind of adequacy criteria and in which many human rights, starting with the right to adequate housing, are violated on a daily basis. Within the cities rest the economic growth, but also with the increasing growth of the urban population, we experiment an overuse of resources and the poor distribution of these to the most vulnerable population. In this sense, inequality is raising within the same areas, more and more people are living in slums with no access to energy or water, and exposing themselves to certain levels of life that do not respect health, also leading to the emergence of other problems such as increasing insecurity, violence, or the creation of breaches within the society and the perpetuation of the hierarchy of the rich together with the marginalization of the poor.

By achieving the right to adequate housing for slum dwellers, we would be able to create prosperity for the city, increasing citizens' participation, social stability, and, most important, dignity for humans. Moreover, the higher the number of conditions and opportunities, the greater would be the effect on the quality of life of all. In this regard, the failure to address the problem of slums so far indicates that policies and programs aimed at slum upgrading tend to address only some of the aspects of the proliferation of slums, which certainly does not stop the existence and emergence of more housing with the same characteristics. To do so, it is necessary to focus on a broader approach that integrates the factors of slum emergence and growth while taking into account all the essential characteristics to be met in the same way. In this sense, the work and experience of UN-Habitat with regard to the improvement of housing conditions for the most vulnerable groups in society should be recognized, and in particular, the elaboration of a handbook for the implementation of the HRBA in the fight for the improvement of slums (see [HRBA and Slum Upgrading](#)). What is the point, for example, of fixing the access to safe water, if the houses are then unstable and unsafe constructions, addressing the issue by trying to solve part of the problem will make the problem last over time. Again, referring to the data in Figure 5 and although the data show a significant decline in the proportion of people living in these slums within urban centres, we should not forget that the decline does not imply improvement or eradication, and the promotion of universal access to basic housing services must continue to be a global priority.

## Cities and Megacities

As we have observed, urbanization in the Global South has been transforming urban environments, expanding the area of use of cities and creating small, medium, and large cities, with the same acquired characteristics of globalization. Despite the fact that the definitions with respect to the qualification of what a city or a mega-city represents, differ due to the urbanistic consideration given to each case, the UN defines the growing urban phenomenon areas as *'high-density metropolises of more than 10 million inhabitants'*<sup>86</sup>. The high population levels in these mega-cities are causing a number of problems, such as the impossibility of ensuring the provision of necessary resources to all residents, as well as the lack of space or housing, leading to an increase in informal settlements and slums. Moreover, the faster a city develops, the more critical these problems become. Furthermore, if we consider that the now developed countries experienced controlled urbanization due to industrialization, we cannot say the same of the countries of the global south, which, due to their rapid growth, had to organize themselves in very different ways, in order to continue acting as duty-bearers and provide the population with the basic services they deserve. Given that both the high growth rates and the number of births in these developing countries are key factors in the growth of cities, the need for urban planning is necessary to prevent many of their residents from being driven into urban poverty<sup>87</sup>. More than 12% of the world's city dwellers lived in the 29 mega-cities that existed in 2015, representing more than 470 million people. Tokyo (38 million), Delhi (25.7 million), and Shanghai (23.7 million) are the largest and will remain so until 2030, when twelve new megalopolises will have emerged, ten of them in Asia or Africa. In addition, mega-cities are facing the dual global pattern of decreasing household size and increasing household numbers, which will result in population accumulation and declining quality of life<sup>88</sup>; thus, successful urban planning will require that attention be given to urban settlements of all sizes.

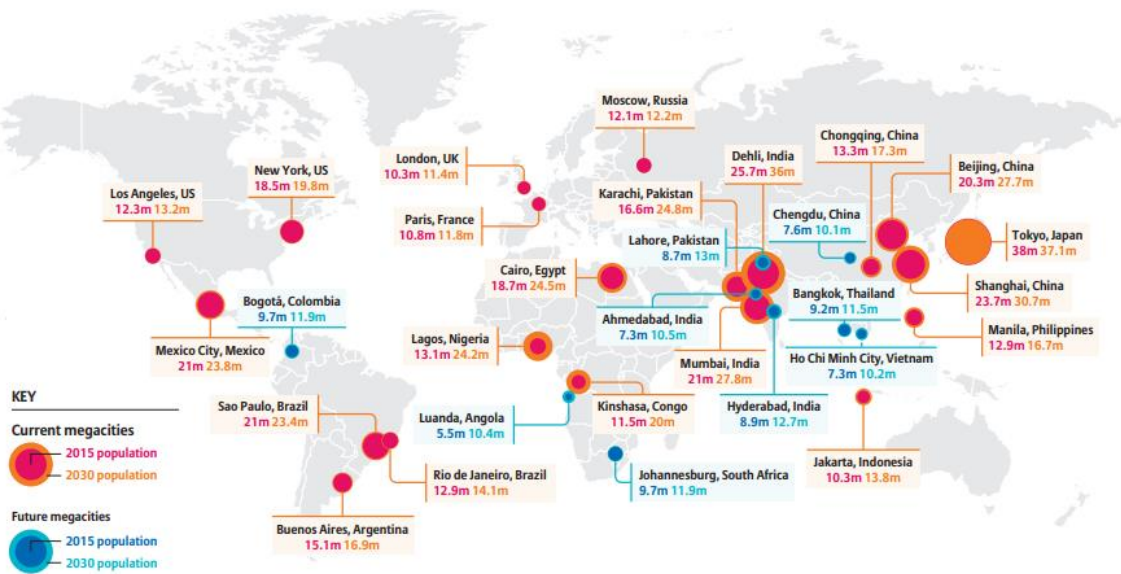
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<sup>86</sup> UN-HABITAT (2006,2007) *State of the World's cities*. Part of UN-Habitat Feature/Backgrounder. Available at: [World's cities](#).

<sup>87</sup> Jungblut, I and Rees, A (2014) Megacities. Published by RESET editorial, in *'Urbanity: Life in tomorrow's cities'*. Available at: [Megacities](#).

<sup>88</sup> Allianz Risk Pulse (2015) The megacity state: The world's biggest cities shaping our future in *'Megacity growth patterns'*, pp.5. Available at : [Megacities patterns](#).

**Figure 6. Current and future Megacities from 2015 to 2030.**



Source: World Urbanization Prospects: The 2014 Revision.

On the other hand, and understanding the key role that cities play in improving the living conditions of all their residents, it should be taken into account that, as cities grow, so do unplanned and neglected areas, the so-called slums. In this sense, we understand slums as a structural and spatial expression of homelessness and growing urban poverty. Given that the majority of people on the planet are city dwellers (and that this pattern continues in its fullest development), the international community is beginning to ask itself questions about how to develop and design urbanization and urban migration in a sustainable way<sup>89</sup>.

<sup>89</sup> Jungblut, I and Rees, A (n 68).

## CHAPTER III: THE LINK BETWEEN URBANISATION AND HOUSING AS A HUMAN RIGHT

Established by the United Nations General Assembly in 1978, the UN-Habitat and Human Settlements Foundation (UNHHSF) is the first UN agency to study urbanization and to address issues of urban growth globally, understanding the human development needs that arise and the aspirations of cities and their residents<sup>90</sup>. Although the rapid attention given to the problem of urbanization may be surprising, at that time, more than half of the world's population continued to live in rural areas<sup>91</sup>, so the impact of urbanization was not seen as a significant issue for the nations of the world. However, during the second global conference organized by the General Assembly for the discussion of human settlements in 1996, the Habitat Agenda was created: a strategic plan adopted by 171 countries, with more than 100 commitments and 600 recommendations. This programme formulated the twofold objective that UN-Habitat was to achieve: 1) '*ensuring adequate shelter for all*' and 2) '*making human settlements safer, healthier and more liveable, equitable, sustainable and productive*<sup>92</sup>,' thus placing the organization's ideals around the achievement of the right to adequate housing.

Despite continued efforts by governments to meet their commitments to the Habitat Agenda, the overall human settlements situation continued to deteriorate in many countries, particularly in the Global South, where most developing countries are located and where the most populated cities in the world can also be found (see [Cities and Megacities](#)). As the economies of these countries grow, so do their challenges; widespread poverty and inequality are remaining the main obstacle to sustainable development in many places, along with the inability of governments to create adequate housing for all their citizens. It was then, in January 2002, by a General Assembly Resolution A/56/206<sup>93</sup>, that the mandate of the agency dedicated to urbanization was strengthened, creating UN-Habitat, a fully-fledged programme within the UN system.

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<sup>90</sup> UN Habitat. *History, mandate & role in the UN system*. See more: [UN Habitat](#).

<sup>91</sup> United Nations (1980) Patterns of Urban and Rural Population Growth. Department of International Economic and Social Affairs, POPULATION STUDIES, No. 68. Published by UN, New York. In '*Table 48: Urban and city population, major areas, regions and countries, 1950-2000*', pp-125-154. Available at: [Patterns of Urban and Rural Growth](#).

<sup>92</sup> UN Habitat, (2003) *The Habitat Agenda Goals and Principles, Commitments and the Global Plan of Action*. See in *Chapter I: Preamble*. Available at: [Habitat Agenda](#).

<sup>93</sup> See the full statement [here](#).

In line with international efforts, in 2015, UN Member States adopted the Sustainable Development Goals, including for the first time in history, a specific target for urban development, the SDG11, which calls for ‘*Make cities and human settlements inclusive, safe, resilient and sustainable*<sup>94</sup>.’ One year later, at the United Nations Conference on Housing and Sustainable Urban Development, called Habitat III, member states signed the New Urban Agenda, an action-oriented document to achieve SDG11, rethinking the way we build, manage and live in cities. The NUA could be an opportunity for States and other relevant actors to increase their capacity and commitment on how to use a human rights framework in planning the future of urban development, shifting the transformation of cities towards an adequate housing for all. Taking into account that the main objectives of UN-Habitat have always been oriented towards housing (sufficient, adequate, affordable and with access to basic services that allow you to take part on education life, work or health<sup>95</sup>), it is not a surprise that this New Urban Agenda has sought to put the need for the realization of the right to housing at the centre of the attention of all nations. One of the guiding principles for the NUA is the implementation of new mechanisms with a human rights-based approach to urbanisation<sup>96</sup>, which is especially important, giving the fact that human rights can question the social conditions chosen by governments to ensure the essential well-being of all individuals.

At first, understanding the relationship between urbanization and the right to adequate housing may seem complicated. However, international institutions such as UN-Habitat have been responsible for clarifying this connection for the improvement of urban settlements, with housing as the main actor. Furthermore, these strategies have a human rights approach, which prioritizes the most vulnerable groups in society and, above all, those who suffer most from housing conditions or lack of housing. The problems presented by urbanization today are many and varied, but as we have seen, housing is at the centre of all of them or is the causative factor of many of them; therefore, ‘urbanization represents the most dominant force and the greatest single challenge of our

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<sup>94</sup> United Nations Member States (2015) 2030 Agenda for Sustainable Development, in *Sustainable Development Goals, SDG 11*. See more about the SDG Goal 11 [here](#).

<sup>95</sup> Referring here to some of the elements that ‘adequate housing’ must include, as agreed by the CESCR in its GC No.4. (see more [Elements on the Right to Adequate Housing](#)).

<sup>96</sup> High Level Committee on Programmes (2014) *Urbanization and Sustainable Development: Towards a New United Nations Urban Agenda*, Twenty-Eighth Session, CEB/2014/HLCP-28/CRP.5, Executive Summary and par. k, 13 and 16.2.

time with respect to the realization of the right to housing.<sup>97</sup> Although urbanization brought with it economic development and progress, these particularities have been diminished by the absence of urban planning<sup>98</sup>.

Urbanization, which can create progress, is de-characterizing cities and increasing social differences<sup>99</sup>. Sustainable urban planning requires policies that take into account the human rights of all individuals, and that housing is needed in adequate conditions to accommodate all groups in society. In order to understand how it has evolved to reach the new urban policies proposed by the New Urban Agenda, placing housing at the centre of all cities, it is important to draw the roadmap and look back at the international efforts that have been able to recommend solutions in this regard.

### The Human Rights-Based Approach for urbanisation

In recent years, the interest and promotion of what it was called as Human Rights-Based Approach (HRBA), grew significantly around the international community's efforts to increase cooperation between nations, in which 'goals and processes of international assistance reflect the principles and norms embodied in the international human rights instruments.<sup>100</sup> According to the OHCHR, while there is no universal recipe for a HRBA, a number of essential attributes must be agreed, including (1) fulfilling human rights; (2) identifying rights-holders and their entitlements, as well as duty-bearers and their obligations, and working towards strengthening the capacities to make their claims and meet their obligations; (3) ensure principles of human rights during the programming process such as universality, indivisibility, interdependence or equality, and participation (among others)<sup>101</sup>. In other words, the HRBA entails a four-step process, which includes; a human right analysis, casualty analysis, a role pattern analysis, and the capacity gap analysis.

While it is true that in many cases, the realization of human rights may sound illusory, what this *new* approach is all about is identifying the actors involved and their rights and obligations in order to address the root causes of the problem. This

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<sup>97</sup> Farha, L and UN GA (2015) *Adequate housing as a component of the right to an adequate standard of living*. Seventieth session UN GA, Item 73 (b) of the provisional agenda, par. 4, pp.5. Available at: [A/70/270](#).

<sup>98</sup> Ibid [20] 7.

<sup>99</sup> Ibid [6] 7.

<sup>100</sup> Andreassen B, and Marks S, (2010) *Development as A Human Right* (2nd edition, Intersentia) in 'Chapter 3: The implications and value added of a Human Rights-Based Approach', pp.45.

<sup>101</sup> Ibid 50-51.

identification would imply addressing a situation not in terms of needs, but in terms of society's obligation to respond to the rights of individuals and assessing the role of the state<sup>102</sup>. This model does not attempt to disassociate the problem from its root, but rather the opposite, empowering individuals and making them participants in the solutions that are being implemented. The international community has witnessed the need to implement this model, based on human rights, for the execution of policies that seek to improve the living conditions of all people and, in particular, those who are in a more vulnerable situation like slum dwellers. Furthermore, both the objectives of sustainable development and the New Urban Agenda have included this HRBA on their realization and execution, and that is why they are presented as models of action for States, taking into account all groups of society, as well as all human rights.

#### From the MDGs to the SDGs

To put ourselves in context and because it is not possible to go over all the international commitments that have been adopted to date in detail, it is important to go back in time and remember the Millennium Development Goals (MDGs). This Declaration was signed in September 2000 by 191 members of the United Nations, committing themselves to the eight goals set for 2015, all of which have specific objectives and indicators, as well as the subsequent SDGs. Although lacking particular references to human rights, the MDGs affirmed certain goals that coincided with the human right to an adequate standard of living, food, work, water, and sanitation, in order to eradicate poverty and hunger (among other overall objectives). Although the intention was always good and the commitment of international leaders was present in the realization, the former United Nations Special Rapporteur on adequate housing, Leilani Farha, recalls that the right to housing was clearly atypical in the MDGs, where, for example, housing or homelessness was not explicitly mentioned anywhere<sup>103</sup>.

However, and although implicitly and poorly formulated, it can be considered that within the Goal 7 '*Ensure environmental sustainability*,' a target related to housing was included: the 7d '*By 2030, to have achieved a significant improvement in the lives of at least 100 million slum dwellers*'<sup>104</sup>'. In this regard, Leilani highlights that the vague and inadequate MDG target on slum dwellers seems to have been mixed up with the

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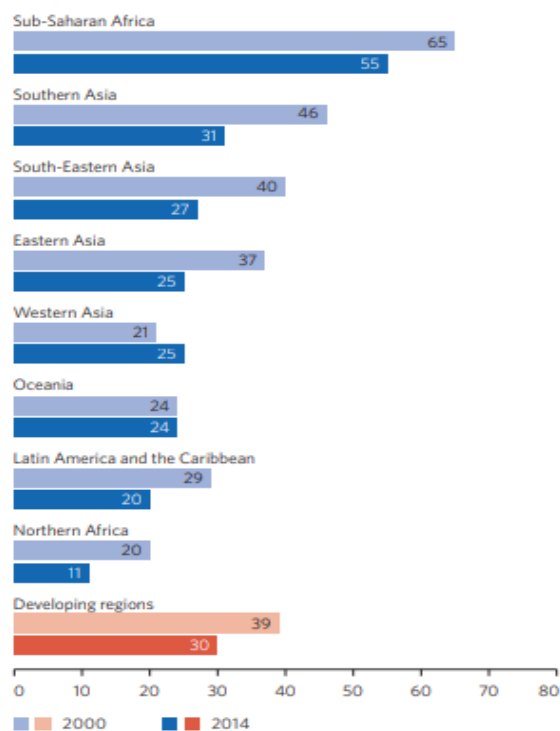
<sup>102</sup> Ibid 65.

<sup>103</sup> Adequate housing as a component of the right to an adequate standard of living (n 83) [29] 17.

<sup>104</sup> UN, ECLAC. Millennium Development Goals in Latin American and the Caribbean in '*MDG Goals, targets and indicators*'. Available at: [ECLAC MDGs](#).

commitment to the progressive realization of the right to adequate housing, and the statistical targets were confused with the realization of rights. As a result of poor or inadequate formulation, it was not surprising that the goal of improving the lives of a tiny proportion of those living in slum-like conditions was soon achieved, when in fact, poor housing conditions continued to increase worldwide<sup>105</sup>. In the following graph, obtained from the report carried out by the UN at the end of the period of implementation of the MDGs, we can see how, proportionally, the number of people living in these neighbourhoods decreased at a global level, although maintaining obviously high percentages for developing countries.

**Figure 7. Proportion of urban population living in slums, from 2000 to 2014.**



Source: UN. The Millennium Development Goals Report, 2015.

However, although the goal was met in this regard, the UN states that the absolute number of urban residents living in slums continues to grow due to accelerated urbanization, population growth, and lack of adequate housing policies<sup>106</sup>. In addition, from the lessons learned in the course of achieving these objectives, we can highlight the

<sup>105</sup> Adequate housing as a component of the right to an adequate standard of living (n 83) [30] 18.

<sup>106</sup> UN, (2015) The Millennium Development Goals Report, in 'Goal 7: Ensure environmental sustainability', pp.60-61. Available at : [2015 MDG Report](#).

need for bold policy reforms and the implementation of equitable urban planning that prevents the formation and growth of slums.

After 2015, and with the completion of the deadline set for the achievement of the goals set by the MDGs, and the lessons learned from them, the United Nations and its members adopted in the same year the Agenda 2030 for Sustainable Development, including 17 Sustainable Development Goals. This international commitment, made up of seventeen global objectives, is an urgent call to action by all countries with the intention of ending poverty, protect the planet and improve the lives and prospects of everyone, everywhere. The long process of building this commitment was developed through decades of work by the countries of the world and the United Nations, including the UN department dedicated to Economic and Social Affairs<sup>107</sup>. Although the outcome document has not included any specific reference to the right to adequate housing, the Goal 11 commits States to *'Make cities inclusive, safe, resilient and sustainable.'*<sup>108</sup> Specifically, target 11.1 commits states to, *'by 2030, ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums'*<sup>109</sup>. Although inclusion should be seen as an improvement at the international level, this objective does not mention at any time the specific right to adequate housing, so there is a gap in what is referred to as *'adequate, safe and affordable housing,'* as it is not related to the international human right to which we are referring. And as Ms. Farha states, *'the lack of specific criteria could be subject to the same kinds of ad hoc interpretations that were applied to MDG 7d, without addressing the real needs of residents of informal settlements or recognizing all aspects of their right to housing'*<sup>110</sup>.

In this sense, Goal 11 does not mention at any time the central elements of the right to adequate housing, which serve as a reference to illustrate the inadequate housing conditions of millions of human beings, which in turn allows us to observe even more clearly the need for real change in this regard, and the general concern about the continuous violations of this human right. On the other hand, the indicator established to measure the progress of this objective has been the 11.1.1: *'Proportion of urban population living in slums, informal settlements or inadequate housing,'*<sup>111</sup> which shows

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<sup>107</sup> See more information about the creation of this political commitment and its trajectory at: [SDGs](#).

<sup>108</sup> SDG Goal 11 (n 82).

<sup>109</sup> Ibid.

<sup>110</sup> Adequate housing as a component of the right to an adequate standard of living (n 83) [33] 20.

<sup>111</sup> SDG Goal 11 (n 82).

the proportion of the urban population that lacks at least one of the five housing conditions below: Access to improved water; Access to improved sanitation facilities; Sufficient living area, not overcrowded; Structural quality/durability of housing; Security of tenure<sup>112</sup>.

However, this means continuing to focus exclusively on measurement and statistical evaluation without meaningful accountability, because of continued neglect of the right to adequate housing and its elements, in which efforts should be localized as an international binding human rights obligation. Furthermore, the UN itself recognizes the limits of the proposed indicator, as it does not cover the spatial dimension of slums, and as it cannot take into account how many and to what extent the five conditions represented are met, it cannot provide accurate information on the severity of slum conditions<sup>113</sup>. Finally, the UN Secretary-General in his report on progress towards the SDGs (prepared, moreover, at the height of the pandemic situation in April 2020), recognizes that *'Rapid urbanization has resulted in a growing number of slum dwellers, inadequate and overburdened infrastructure and services,*<sup>114</sup> assuming this situation, an increase of 24% of the total urban population by 2018. If we compare this with data obtained in 2014, and before the end of the MDGs, this population represented 23%, from which it can be deduced that, five years after the adoption of the SDGs, the situation of these individuals and the conditions of their housing have not been improved to this day.

#### The New Urban Agenda: Housing at the centre

The third conference on urbanization, Habitat III, was held in the city of Quito, Ecuador, in 2016, bringing together more than 30,000 people from 167 different countries<sup>115</sup>. However, the results of this meeting, far from being binding and representing an obligation for states, have been the result of cooperation and dialogue, sharing a vision of the future of our cities and commitments to achieve sustainable urban development. While the recognition of the challenges that rapid urbanization poses to cities is not new, the outcome of Habitat III represents a global commitment to the implementation of the New Urban Agenda, which seeks the realization of sustainable urban development and proposes solutions for adequate housing in all cities of the world. Apart from its

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<sup>112</sup> UN (2007). *Methodology sheet for Urban Slums*. Available at: [Methodology sheets](#).

<sup>113</sup> Ibid.

<sup>114</sup> UN Economic and Social Council (2020) *Progress towards the Sustainable Development Goals*. 2020 session, agenda items 5 (a) and 6, par.100, pp.13. Available at: [E/2020/57](#).

<sup>115</sup> See more on the Habitat III Conference [here](#).

extraordinary content, the NUA aims to guide the efforts around urbanization for a wide range of actors, including municipal, national and regional governments, donors, the private sector, UN organizations, and civil society<sup>116</sup>. Thanks to the NUA, national governments will have to strive to rekindle their political will to empower cities and build their capacities and resources. Cities will also need to facilitate public-private cooperation and involve civil society at large, with the ultimate goal of creating the planning, regulatory, financing, and implementation models required to achieve sustainable urban development. And all this is even more important considering that, if something has failed before, it has been precisely the lack of connection between theoretical commitments and their effective application, lacking, moreover, an integrated vision of housing in the framework of national urban development<sup>117</sup>.

Another positive feature to be highlighted from this Urban Agenda is the central position it has given to housing, as cities now face persistent problems in meeting their housing needs; ‘not only is the lack of adequate housing enormous, but the affordability of housing has become a global crisis with strong negative impacts on people's well-being and exacerbating urban inequality.’<sup>118</sup> Furthermore, as UN-Habitat explains, the objective of placing housing at the centre of the urban agenda is to shift the focus from simple housing construction to a holistic framework for housing development, placing people and human rights at the forefront of sustainable urban development. On the other hand, putting housing at the centre of new urban policies becomes necessary given the new emerging forms of urbanism that are building cities as places of exclusivity, rather than presenting them as an opportunity for progress and development. All this is achieved through the implementation of urban policies with a HRBA, which has the capacity to add value to urban planning, prioritizing the interests of the most vulnerable and marginalized groups in society and promoting their participation in the planning process, in other words, promoting an inclusive urban planning process<sup>119</sup>. In order to place housing at the centre of city planning, UN-Habitat has considered it essential to take into

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<sup>116</sup> Charles, A in World Economic Forum (2016) *The New Urban Agenda has been formally adopted. So what happens next?* Available at: [Weforum](http://Weforum).

<sup>117</sup> Housing at the centre of the New Urban Agenda (n 5) in *III. Housing at the Centre of National Urban Development* 11.

<sup>118</sup> Ibid, in *‘Introduction’* 3.

<sup>119</sup> Ibid, in *‘IV. Housing at the centre of cities’* 16.

account the following principles, which simplify and highlight the close relationship between housing and the global urban phenomenon<sup>120</sup>:

1) *housing is an integrating element of urban planning*, so it must be connected to the different elements of urban development;

2) *location and urbanization issues will not be inclusive if access to housing, services, and livelihoods is not provided for all*, because access to transport and location of housing within key points of the city is important, it is considered essential to promote the spatial inclusion of low-income and vulnerable groups, by locating affordable housing in central areas, through socially inclusive urban planning;

3) *urban planning and legislation should contribute to maximize affordability of housing and spatial inclusion*, understanding that progress in urban planning should contribute to improving the affordability, location, and accessibility of housing, especially for those most in need;

4) *sustainable housing is a litmus test of sustainable cities*, the impact on the urban environment and climate change should be considered for their potential to improve the resilience of cities;

5) *urban planning policies and programmes should be geared toward the progressive realization of the right to adequate housing for all*, meaning that approaches that integrate people and understand community dynamics contribute to countries' efforts to meet their international obligations;

6) *a continuous participatory and inclusive urban planning process should be the starting point for integrating housing into urban growth and development strategies*, provide, inter alia, an opportunity for social, economic and spatial integration.

Having said this, we can affirm that the model of action promoted by the NUA takes into account all individuals in society, and understands that in order for the problems generated by growing urbanization to be solved and bring about positive changes, social commitment at all levels of the power hierarchy must be real. Furthermore, the NUA recognizes the role of cities as agents of change, and the historic opportunity they present

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<sup>120</sup> Ibid 16-17.

as drivers of sustainable urbanization in an increasingly urbanized world<sup>121</sup>. On the other hand, the implementation plan for the NUA includes among its transformation commitments, the adequacy of housing as the main axis of urban transformation, highlighting the importance of the progressive realization of the human right to adequate housing<sup>122</sup>. In this regard, the declaration also includes a commitment to develop housing policies and approaches that respond to the needs of all sectors, as well as to encourage the provision of a range of safe, affordable, and accessible adequate housing options in accordance with the different incomes earned by society<sup>123</sup>. As for the implementation, the NUA recognise the importance of integrated participatory planning and management of urban spatial development, complemented by international cooperation and coordination strategies, and the sharing of best practices between agents and states at all levels, strengthening the capacity of subnational and local governments to implement effective multilevel governance<sup>124</sup>. Moreover, the NUA also takes into account that the integrated planning between short-term needs with the long-term ones, have to be balanced in order to achieve the proposed goals<sup>125</sup>.

The adequation of housing, within this urban agenda, occupies a fundamental role, above all, in the planning and management of urban spatial development, since improving the quality of life of individuals begins with offering the opportunity to dignify their lives, being able to reside in comfortable and above all, safe and adequate environments that allow for the normal development of all individuals. Moreover, with a human rights approach, the improvement of living conditions is not only about the superficial part of improving housing, but goes beyond that, including all sectors of the population in the process of change and evolution, and empowering the place that each human being has in society, making them participants in what happens in the city, and increasing the bonds of belonging to a place<sup>126</sup>. Finally, and in relation to the follow-up and review, the UN states that periodic reviews would be carried out to ensure coherence and track progress at the national, regional, and global levels but also, with the commitments set by the 2030

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<sup>121</sup> UN-Habitat (2017) New Urban Agenda. Adopted at the United Nations Conference on Housing and Sustainable Urban Development (Habitat III) in Quito, Ecuador, on October 2016. In *'Call for Action'*, par.22, pp.9. Available at: [NUA](#).

<sup>122</sup> Ibid, in *'Transformative commitments for sustainable urban development'* [31] 12.

<sup>123</sup> Ibid [32-33] 12.

<sup>124</sup> Ibid, in *'Effective implementation'* [81-91] 22-24.

<sup>125</sup> Ibid [94-95] 24.

<sup>126</sup> Ibid [98-107] 25-27.

Agenda for Sustainable Development<sup>127</sup>. The NUA reminds us of the importance of UN-Habitat and its central role within the UN on sustainable urbanization and human settlements., as well as its expertise, mandate, and financial capability<sup>128</sup>.

#### *HRBA and Slum Upgrading*

In 2017, UN-Habitat, using its experience in improving urbanization, created a handbook that serves as a guide for the implementation of the HRBA to housing and slum upgrading, taking into account the importance of the realization of the human right to adequate housing as a prerequisite for an inclusive and sustainable urban centre for all. The problem of slums and their conditions continues to be present in the world as 'almost one billion of the world's urban population live in inadequate housing conditions in slums,'<sup>129</sup> of which more than half are from developing countries. In this sense, UN-Habitat participatory slum upgrading is understood as 'both, the process and delivery of improved governance arrangements and living conditions that benefit from improve the lives of slum dwellers.'<sup>130</sup> Considering the importance of the NUA and its implementation, the most vulnerable groups must be taken into account throughout the process of urban development, taking into account the principles of '*inclusive participation*' and '*leave no one behind.*' These international commitments, 'demonstrate the vision of the international community to create socially inclusive cities, as there are large numbers of urban residents who must be empowered to act, and ensure that their rights are respected and fulfilled.'<sup>131</sup>

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<sup>127</sup> Ibid, in '*Follow-up and review*' [161-164] 40.

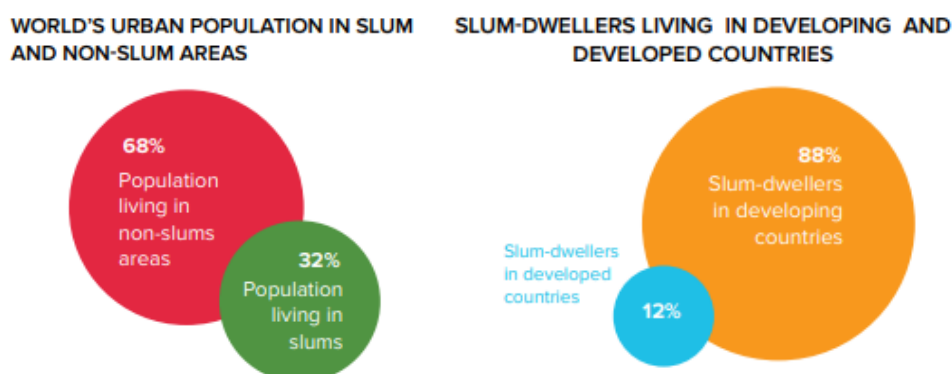
<sup>128</sup> Ibid [171-172] 41-42.

<sup>129</sup> UN-Habitat (2017) HUMAN RIGHTS IN CITIES HANDBOOK SERIES VOLUME I: The Human Rights Based Approach to Housing and Slum Upgrading. First published in Nairobi in 2017 by UN-Habitat, in '*Executive Summary*', pp.6. Available at: [HRBA](#).

<sup>130</sup> Ibid, in '*A fundamental understanding*' 18.

<sup>131</sup> Ibid 21.

**Figure 8. Distribution of slum urban population.**



As we have studied so far, the manifestation of slums and above all, their continuity, has much to do with the violation of the human right to adequate housing, in conjunction with other rights of the same nature. Furthermore, the persistence of these settlements affects many aspects of human life, including ‘the possibility of participating in public life, educational opportunities, access to water and sanitation, health care and livelihood opportunities,<sup>132</sup>’ among others. In addition to the difficulties these individuals face in accessing basic resources, it is also necessary to take into account the constant discrimination to which they are subjected and the disadvantages concerning the rest of the population due to the lack of recognition by local and municipal governments, which creates increasing spatial inequalities and favours divided urban centres. In addition, UN-Habitat points out another element to be taken into account, which is the perpetuation of ‘*intergenerational cycles of discrimination.*<sup>133</sup>’ By this, it is understood that many of the people who currently live in these slums are the children or grandchildren of later generations, who have suffered the same (or greater) lack of urban planning as them and therefore, the same stigmas and forms of discrimination. However, even though these new generations have been raised in a context of change, their social conditions and opportunities have not been transformed, which continues to feed the cycle and perpetuate discrimination. In order for this to be modified, and for these new generations to enjoy living conditions which, by international obligation, must be addressed, ‘decision-makers and development actors must make clear efforts to ensure that cities and towns are places of opportunity and well-being for all its residents.’<sup>134</sup>

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<sup>132</sup> Ibid.

<sup>133</sup> Ibid 22.

<sup>134</sup> Ibid.

Although due to the lack of means it is not possible to carry out a complete study and apply it to a specific problem (such as the inhabitants of the favelas of Rio de Janeiro), it has been considered essential to understanding the model proposed for the improvement of housing conditions in the slums, with the ultimate aim of being able to apply it in practice in the future.

1. The first step to be carried out in the HRBA is to conduct a human rights analysis. Following this, we must identify the human rights that are relevant to the issue or that are in danger of not being respected, (in this case, let's remember, referring to slum dwellers). This will require a review of international, regional, national, and even local legal sources. It is then important to assess the actual level of enjoyment of the rights identified by all urban residents and whether people are experiencing or at risk of violations of their rights. In order to take into account, in particular, the rights of the most vulnerable groups in this analysis, UN-Habitat proposes the use of international sources such as the UPR, UN Special Procedures, Concluding Observations or the UHRI (See more [Limits on the Right to Adequate Housing: Is there a right to complain?](#)). Finally, it should be assessed whether slum dwellers or other vulnerable groups are at higher risk of having their rights violated<sup>135</sup>.
2. The second step aims to identify the problem, its causes, and its effects. This will begin by identifying the root causes of the problem, which will also make it possible to address the fundamental and underlying causes, which will make it possible to develop long-term and structural change. After identifying the causes and distinguishing between the immediate, underlying, and root causes, it is important to establish the links between the causes and their effects, to ensure that the intervention is indeed well targeted<sup>136</sup>.
3. The third step, perhaps the one that requires more methodology and effort, is the analysis of role patterns. The right-holders with valid human rights claims must be identified, and in turn, the duty bearers and their corresponding obligations. Next, the level of enjoyment (or lack thereof) of rights claimed by rights-holders must be assessed, as well as the role that duty-bearers currently

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<sup>135</sup> Ibid, in *'What are the 4 steps in the HRBA'* 29-33.

<sup>136</sup> Ibid 33-37.

play in respecting, protecting and fulfilling those rights. To help us with this identification, UN-Habitat proposes to make use of a matrix of role patterns, in which, in an organized way, we will be able to identify and analyze perfectly, the information we need. Finally, to ensure the greatest possible impact of the intervention and to avoid the risk of interventions perpetuating patterns of discrimination, marginalization, and exclusion, priority should be given to the most vulnerable individuals or groups who are also at high risk of human rights violations<sup>137</sup>.

4. The last step is the Capacity Gap Analysis, which seeks to identify gaps in the capacity of rights holders to claim their rights and of duty-bearers to fulfil their obligations to respect, protect and fulfil the corresponding human rights. Ultimately, the measures to be taken to reduce or close these capacity gaps must be identified, so that priority is given to slum dwellers and vulnerable people in the proposed intervention<sup>138</sup>.

After having analyzed the steps recommended by the HRBA on housing and slum upgrading, it is important to keep in mind the importance of the last part of the process: monitoring and evaluation, since both actions help to improve performance and achieve better results. To this end, the importance of a continuous process of monitoring and data collection is first stressed, as it will, in turn, be indispensable for carrying out a quality evaluation. In addition, this monitoring and subsequent assessment must be ‘participatory, non-discriminatory, open and transparent for the purposes of accountability, inclusion, and sustainability.’<sup>139</sup> It also mentions the importance of data management and its breakdown into subcategories, revealing possible disparities and patterns of discrimination. On the other hand, indicators and progress markers can be used to measure the impact of interventions and the potential for strategic improvement of policies, programmes, and projects. Equal attention should be paid to the achievement of desirable human rights outcomes, as well as to the quality of the process leading to those outcomes. Besides, a combination of qualitative and quantitative indicators is needed to monitor both outcomes guided by human rights standards and procedures guided by human rights principles<sup>140</sup>. Thus, the methodology proposed by this HRBA allows us to

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<sup>137</sup> Ibid 37-40.

<sup>138</sup> Ibid 40-43.

<sup>139</sup> Ibid 45.

<sup>140</sup> Ibid 44-50.

elaborate and implement more inclusive and sustainable projects, which, in this sense, and applying what we have learned, will contribute to the realization of the right to adequate housing in cities, as well as other human rights.

## CHAPTER IV: LOCALISING HUMAN RIGHTS. THE FAVELAS OF RIO DE JANEIRO

Having clarified the relationship between housing and urbanization and the most important aspects of this connection by reviewing the human rights approach of the new international policies that have emerged in recent years, we now move to the observation of these phenomena in a localized context: the city of Rio de Janeiro and its favelas. The interest in observing the phenomenon of adequate (or inadequate in this case) housing in fully urban environments was inspired precisely by the social issue of favelas, clearly inadequate housing that endures and persists in Brazilian cities. I believe that, although I have chosen to carry out a theoretical review of this relationship, the location of these human rights in a concrete environment will help us to understand the issue from a closer point of view.

Moreover, this chapter was inspired by the studies carried out by Janice Perlman, who has studied the situation of Favelas in Rio de Janeiro for many years. Through her books, the author brings us closer to the reality that has been shaped in the city and its slums, with theoretical studies that bring us closer to the history of the marvellous city (or *cidade maravilhosa* in Portuguese), as well as through her fieldwork, with the help of original testimonies. In her latest book published in 2010, Perlman reviews 40 years of history in the favelas by interviewing the same families who helped her in her study *'The Myth of Marginality.'* This book is an in-depth study that reveals the living conditions and problems that life continues to pose for many slum dwellers. The author's extensive study can be applied not only to the city of Rio de Janeiro but to the entire Global South and its mega-cities, offering a long-term vision of the significant challenges facing cities in the 21st century.

To understand a little more about the problems of the city concerning the formation and continuity of the slums, it is important to understand the formation of the same and their history within the configuration of the city, so as to understand the current situation that the inhabitants of these slums experience every day. On the other hand, and thanks to my personal experience living in this city and being able to know the realities closely, I have had talks with friends, which has helped me to analyse the problems from a more critical and informed perspective, understanding at the same time, the vision that

is held of the favelas and their inhabitants, as well as the development problems that this causes for their families, due in large part to the lack of urban planning. Likewise, and since Rio de Janeiro is a city that has included the right to adequate housing in its statute, it is important to know the role of this right in possible urban reforms concerning favelas, and above all, how the realization of this human right would be reasonable concerning the actual framework of the city and how this could be managed for these individuals. For this reason, further research (and more detailed information) would be needed to elaborate on a comparative analysis of the favelas regarding the adequacy of these slums. Although it is true that international commitments serve as a guide and example for the actions of local governments, more considerable efforts are needed to solve the problems from the root of their formation, and that is why observing the problem from the local perspective is presented as an immediate need.

### The foundations of the Favelas in Rio de Janeiro

The word favela, which means informal settlement, began to be used in the city of Rio de Janeiro at the end of the 19th century. After the Canudos War ended in 1897, a conflict between the Brazilian army and members of a popular socio-religious movement, some soldiers returned to the capital of Brazil (which was then Rio de Janeiro and not Brasilia) and camped on one of the city's hills to demand that the government pay them all the back wages which, although the war was over, had not been received. Apparently, the government never paid them, and the soldiers decided to stay in the city, improvising the creation of the neighbourhood that became known as Morro da Favela, which now belongs to the favela called Morro da Providência<sup>141</sup>.

Due to the natural geography of the city of Rio with its large hills, the steep slopes of these places make construction even more complicated and, therefore, less attractive. However, these first settlements in the favela da Providência served as an example for later, as new waves of rural immigrants arrived in the city, they decided to build housing for their servants in these places, so that while the *bosses* lived in the asphalt (referring to the flat area, with roads and buildings), individuals with few resources settled in the favelas, assuming this a quick solution to counteract the lack of housing and high rental prices.

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<sup>141</sup> Santa María Muxica, L. (2011). *La favela como espacio de exclusión social en la ciudad de Rio de Janeiro*. EURE (Santiago), 37(110), 117-132. Available at : [Favelas as social exclusion](#).

While it is true that in other Brazilian cities, favelas tend to be found outside the city (in the suburbs), in Rio they are integrated within the city but excluded and marginalized. During the first half of the 20th century, the city of Rio de Janeiro expanded, and favelas developed in its interior, producing a variation in their growth depending on the area in which they were located<sup>142</sup>. A vertical growth could be observed in the centre and the South Zone, while in the North and West Zone the expansion was through horizontal constructions<sup>143</sup>. In the 1940s and 1950s, there was a metropolitan expansion, and the city's periphery was formed, without urban infrastructure and challenging to access, but very economical and affordable for newcomers to the city<sup>144</sup>. In addition, in the 1960s and 1970s, the creation of apartment buildings (or condominiums) was associated with the demolition of favelas, so irregular settlements were relocated to distant areas<sup>145</sup>. At the same time, most of the unoccupied land was taken over by large real estate companies for the construction of luxury apartments and villas<sup>146</sup>.

**Figure 9. Type of growth of favelas.**



Vertical growth example: Favela of Vidigal, South of the city.



Horizontal growth example: Favela Cidade de Deus, West of the city.

Source: elOrdenUrbano en el S.XXI. Intentando comprender como funcionan las ciudades.

<sup>142</sup> Seldin, C. and Canedo, J. (2018) *Housing in "intramural favelas". Considerations on new forms of urban expansion in contemporary times*. Published in the biannual academic journal 'Cidades. Comunidades e territórios'. Available at: [Housing in Brazil](#)

<sup>143</sup> Pérez Ventura, Juan (2016) *Favelas en Rio de Janeiro*. Published by 'El Orden Urbano en el S.XXI', in the category of demography and housing. Available at : [Favelas Rio](#)

<sup>144</sup> Ibid.

<sup>145</sup> Fessler Vaz, L and Berenstein Jacques, P (2003) *Pequeña historia de las Favelas de Rio de Janeiro*. Published in '*Ciudad y territorio. Estudios territoriales XXXV*', pp.263.

<sup>146</sup> Ibid 268.

**Figure 10. Favelas grow faster than the city of Rio.**

<i>Year</i>	<i>Population of favelas (a)</i>	<i>Total population of Rio (b)</i>	<i>a/b (%)</i>	<i>Favela growth rate by decade (%)</i>	<i>Rio growth rate by decade (%)</i>
1950	169,305	2,337,451	7.24	-	-
1950-60	337,412	3,307,163	10.20	99.3	41.5
1960-70	563,970	4,251,918	13.26	67.1	28.6
1970-80	628,170	5,093,232	12.33	11.4	19.8
1980-90	882,483	5,480,778	16.10	40.5	7.6
1990-2000	1,092,958	5,857,879	18.66	23.9	6.9

From 2000-2005 favelas grew six times more than nonfavelas.

Source: IBGE (Brazilian Institute of Geography and Statistics), 2000, IPP (2008-09)

Source: FAVELA. Four decades of living on the edge in Rio de Janeiro, Janice Perlman.

It should be noted in this regard that the possibilities for expansion of the city of Rio were scarce precisely because of its mountainous geography and because the coastal lands were destined to become luxury residential neighbourhoods (see the Southern Zone, which hosts the neighbourhoods of Copacabana, Ipanema, and Leblon). In this sense, the way in which the favelas of the South are built, vertically, favours their marginalisation while leaving these dwellings in plain sight, something that sounds totally contradictory if we take into account that the separation takes place within the same city and even the same neighbourhood. Thus, the favelas were, in fact, the source of solutions to settle the most impoverished families that moved to the city, in the marginality of the hills, building precarious houses that introduced the rural element typical of their inhabitants. It was the mayor Pereira Passos, who ruled the city between 1902 and 1906, who was in charge of modernizing it, including numerous demolitions and the rise in land values, which led many inhabitants to emigrate to irregular settlements, which would, of course, cause the expansion of the favelas<sup>147</sup>.

In the years that followed, the favelas continued to be viewed by the government and public opinion with a harmful and degrading approach, being considered as serious threats to the welfare of the rest of the population, taking as a reference for the justification of this statement the proposed subsequent planning around the issue of favelas. The 1937 Building Code prohibited the construction of favelas and new settlements of the same characteristics, preventing not only their expansion but also the use of other types of construction materials that were more resistant than those commonly used for the

<sup>147</sup> Fessler Vaz, L and Berenstein Jacques, P (n 143) 136-137.

construction of these communities<sup>148</sup>. As Perlman points out in this regard, ‘the city dwellers were caught in a trap: the planners found the self-built favelas abominable, but forbade any effort to turn them into decent houses; they wanted to destroy them but offered no alternative. During the military dictatorship that the country experienced, the population continued to grow, and so did the favelas, despite the continued efforts of successive municipal administrations to destroy them’<sup>149</sup>. In fact, Rio's favelas continued to grow faster than the rest of the city between 1950 and 2000 (see Figure 10). During the political immobility brought about by the dictatorship, the inhabitants established neighbourhood associations to claim the lack of rights such as access to water, electricity, pavements, streets, etc., since as the population increased, so did the urban poverty that the lack of all these basic rights brought with it<sup>150</sup>. However, after the end of the dictatorship in 1985 and with the beginning of a democratic transition, it became clear that the impetus to eradicate the favelas was dead and that these ideas would be eradicated, as no government would risk alienating more than a third of the electorate<sup>151</sup>.

**Figure 11. Favela and Non-favela growth in Rio de Janeiro.**

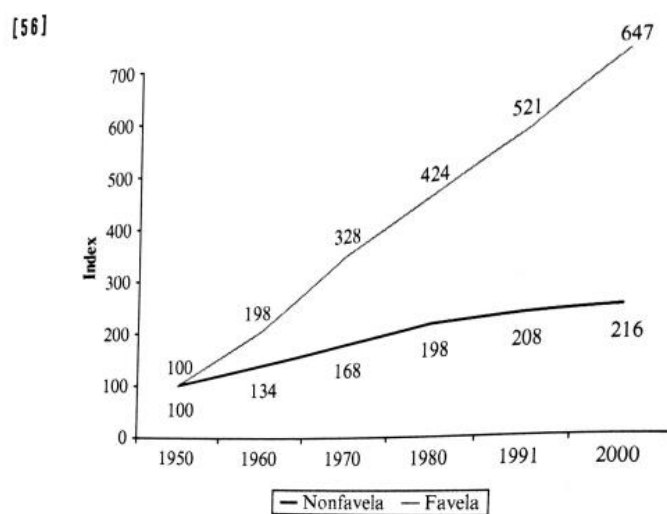


FIGURE 2.6 Favela and Nonfavela Growth in Rio de Janeiro, 1960–2000. Population Index 1950 = 100  
 Source: Instituto Pereira Passos-Rio de Janeiro (2008–09)

Source: FAVELA. Four decades of living on the edge in Rio de Janeiro, Janice Perlman.

<sup>148</sup> Ibid.

<sup>149</sup> Perlman J, (2011) Favela, Four Decades Living on the Edge in Rio de Janeiro in ‘Chapter 2: The world goes to the city’. Published by Oxford University Press, pp.47-52.

<sup>150</sup> Ibid.

<sup>151</sup> Ibid.

As this figure shows, although one could consider that the population growth of the 'asphalt' in the city of Rio was constant from 1950 to 2000, we cannot say the same for the inhabitants of the favelas. In comparison, during this same period, favelas increased their population three times more than their affluent neighbours. Although these data may be irrelevant, it shows us that while the city of Rio continued to grow and urban reforms were necessary (in general), this need was latent for the favela dwellers, as the increase in population in these places continued its course far beyond the rest of the city. The more people decide to live in the same neighbourhood, the more resources must be allocated to ensure that all people, regardless of their status, have equal access to goods and services.

### From marginality to exclusion: Urban segregation and structural transformation

When I arrived in Brazil, I was lucky enough to fit in with the city from the start, with its people, its culture, its way of life. However, I have to admit that, being nineteen years old at the time, the prejudices I had about favelas and their inhabitants were a very preconceived idea from what I had read on the internet and had been told by people who had visited the city previously. Being a foreigner in a city where, for many, life is worth very little, you always have certain unfounded fears that make you stop enjoying the experience to the fullest. That was not my case. Thanks to the friends I met during that year, I discovered happiness in simplicity, in a sunrise, in the good climate, in the right people, without prejudices, just by meeting people, listening to stories, discovering places. To this day, I have kept many friends from that year, I have returned to the city whenever I could, and I have brought some friends to visit my country and get to know my city. But without a doubt, the most important thing that I have taken with me from Brazil has been all its people, the kindness that characterizes them, the disposition that they always have for everything, the affection that they demonstrate for the people, the environment, and, mainly, the lack of prejudices, the desire to live and how they do it.

Despite my reasonable opinion and the excellent taste that this experience left me, I have always been able to perceive the stigma of living in a favela and the continuous marginalization that the residents of these neighbourhood's face. Janice Perlman discusses this aspect of favelas in Chapter 6 of her book *'Favela,'* which is entitled as *'Marginality: From Myth to Reality.'* Based on the author's analysis, we review the change that has taken place over the years in the marginalization of slum dwellers in Rio de Janeiro.

As the data analysed in the previous section showed us, we can affirm that the favelas shelter millions of inhabitants, people who if they did not live in these houses would probably be homeless. However, if there were other social housing options in Rio de Janeiro that were not these, the favelas would probably not exist either. As Perlman points out, ‘the negative stereotypes about those living in favelas have formed an ideology or marginality powerful enough to blot out all evidence to the contrary. Insofar as the favela residents are seen as social problems, the idea of getting rid of them would never be off the policy table<sup>152</sup>’. While it is undeniable that the inhabitants themselves feel a need for change within their communities, most of them would be very sad if instead of solutions, demolitions were proposed, taking into account that we are talking about homes and that this would probably lead to forced evictions.

Despite the fact that the need for urban planning and reform is more present than ever, this does not mean that they should be eliminated, but quite the contrary, that their conditions should be adapted as a human right, which would give dignity to their inhabitants and would avoid having to displace them. However, Perlman says she has discovered that, although the concept of marginalization is far from being eradicated, it has evolved over the years in relation to slum residents, which in turn has led to this change being represented in practice and theory<sup>153</sup>. Furthermore, her conclusion in this regard was that ‘favela residents are not marginal at all but inextricably bound into society, albeit in a manner detrimental to their interests and although they are neither economically nor politically marginalized, they are exploited, manipulated and repressed; not socially or culturally marginalized either, but stigmatized and excluded from a closed class system.<sup>154</sup>’

Because Perlman has previously studied the marginality in Rio's favelas, we rely on her studies to understand this. On this basis, she clarifies that the ideology of marginality has persisted and continues to this day, noting, moreover, that there are multiple overlapping and mutually reinforcing reasons for this persistence. Among some of the most critical persisted reasons, she mentions, ‘the justification of extreme inequality, the preservation of dominant norms, or the consideration of the *favelados* as the source of all social problems<sup>155</sup>.’ This shows how marginalization brings with it a

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<sup>152</sup> Ibid, in ‘Chapter 6: Marginality from Myth to reality’ 148.

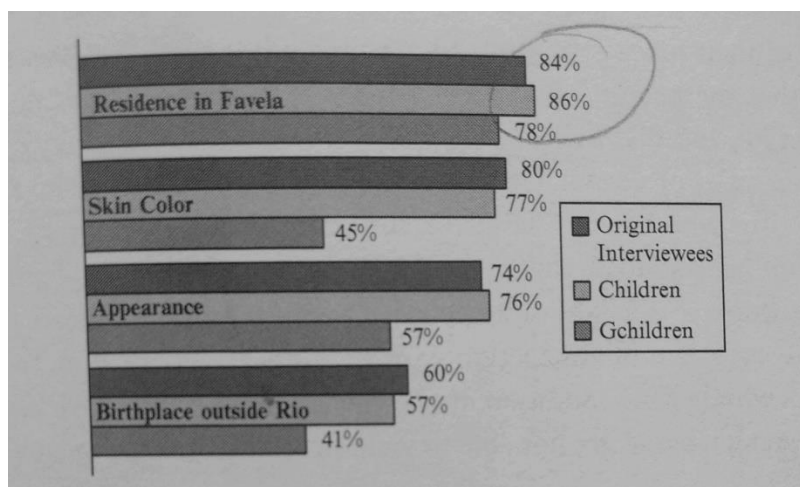
<sup>153</sup> Ibid 149.

<sup>154</sup> Ibid 150.

<sup>155</sup> Ibid.

dehumanization of the poor, making them seem increasingly invisible to society in general, and the city in particular. In addition, the lack of opportunity to develop personal human capabilities leads to poverty, thus perpetuating the belief that the poor are inferior to the rest of society, and that they will never succeed in belonging to it. Finally, and as we can observe in the figure below, concerning the sources of discrimination, the stigma of living in a favela was the most prominent element in the interviews the author conducted in 2001 and again in those conducted afterward, ahead of skin colour, appearance, or gender<sup>156</sup>.

**Figure 12. Sources of discrimination in Rio de Janeiro.**



Source: FAVELA. Four decades of living on the edge in Rio de Janeiro, Janice Perlman.

### Domestic implementation of the Right to Adequate Housing

Having understood the existence of the great problem of Rio de Janeiro with respect to the favelas (as an example of inadequate or informal housing), and having analysed the international efforts to contribute to its improvement, it is inevitable to think about the possible existence of legal means that have been established to alleviate the effects of this problem locally. In this sense, and having analysed the conformation of the favelas in the city, we understand that this phenomenon, apart from not being new, has been raising the interest and disagreement of the different governments that have passed through the city for years. While it is true that these attempts to improve favelas through public policy programs should be recognized (see [Evolution in Favela Policy: From Favela Bairro to Minha Casa Minha Vida](#)), the success rates have varied, but none of them have resulted in adequate improvement of these houses. Even though Brazil has acquired

<sup>156</sup> Ibid 154-155.

for its national legislation a wide range of housing rights, as set out in international human rights standards, this has not always translated into greater or better access to adequate housing for the most vulnerable people, as favelas as inadequate housing have continued to grow in number and population<sup>157</sup>.

#### From the Federal Constitution of 1988 to the Statute of the City of 2001

On a quick reading of the Brazilian federal constitution, we find that the right to housing is included in numerous provisions, to mention: clauses XXII and XXIII of Article 5<sup>158</sup> (mentioning private property as a fundamental right); Article 6<sup>159</sup>, which explicitly mentions the right to housing as a fundamental right; clause XX of Article 21<sup>160</sup>, which indicates the government's obligation to adequate housing; clause IX of Article 23<sup>161</sup>, committing all state legislative hierarchies to improve housing conditions; or Articles 182 and 183, which legislate on urban planning and policies<sup>162</sup>.

However, it should be remembered that while the constitution is presented as the most important source of state power, in a federal organization, the powers of the states that make up the country are significant because of their independence. Continuing with the analysis, in the year 2001, Law 10.257 was created, a federal law that was coined as the Statute of the City and whose objective is to regulate Articles 182 and 183 of the Federal Constitution of 1988<sup>163</sup>. The City Statute was planned with the aim of creating a new legal-urban order that facilitates access to land and equity in large cities, as is the case in the city of Rio de Janeiro. In this sense, it can be said that, although it arose as a result of many years of popular struggle to equalize housing conditions for citizens, it is based on the idea of the Right to the City.

Although we will not go into this concept in-depth, above all because it is not recognized under international law, it is important to clarify its meaning, as it is a

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<sup>157</sup> COHRE for UN CESCR (2008) Submission concerning Brazil in '2. *The National Social Housing System*'. Published by OHCHR, pp.9-10. Available at :[COHRE Brazil](#).

<sup>158</sup> Biblioteca Digital da Camara dos Deputados (2010) Constitution of the Federative Republic of Brazil (3rd Edition), in '*Chapter I: Individual and Collective Rights and Duties*', pp.15-21. Constitutional text of October 5, 1988, with the alterations introduced by Constitutional Amendments No. 1/1992 through 64/2010 and by Revision Constitutional Amendments No. 1/1994 through 6/1994. Available at: [Brazil Federal Constitution 1988](#).

<sup>159</sup> Ibid, in '*Chapter II: Social Rights*' 21.

<sup>160</sup> Ibid, in '*Chapter III: The Union*' 30-32.

<sup>161</sup> Ibid 33-34.

<sup>162</sup> Ibid, in '*Chapter II: Urban Policy*' 131.

<sup>163</sup> Cities Alliance, National Secretariat for Urban Programmes, and Brazil Ministry of Cities (2010) The City Statute of Brazil. A commentary, in '*Commentary of the City Statute by Furbino Bretas Barros, A., Santos Carvalho, C., Todtmann Montandon, D.*', pp.91. Available at: [The City Statute](#).

representation of the struggle for citizens' rights and the promotion of citizen participation in decisions on urban change. The City Statute aims to bring together a number of critical issues, primarily related to urban justice. It also highlights the seriousness of the urban question, ensuring that urban problems are placed high on Brazil's national political agenda<sup>164</sup>. In order to emphasize the importance of the creation of this statute, we read its Article 2, which defines the guidelines which must be followed by the Municipality when elaborating its urban policy, to ensure that all inhabitants can enjoy the benefits of the urbanisation process. Moreover, in its Article 4, the City Statute establishes that 'urban policy must be the outcome of extensive planning, involving integrated plans for territorial organisation at the national, state, regional, metropolitan, municipal and inter-municipal levels. Specifically, the Statute determines that municipal planning must involve urban, environmental, budgetary, sectoral planning as well as economic and social development planning and that budgetary management must be undertaken in a participatory manner, involving all citizens'<sup>165</sup>.

The innovative approach to the legal order contained in the City Statute must be taken as an achievement for the city in terms of adding value to urban planning but most importantly, to add value to all inhabitants but mainly those who belong to the most vulnerable groups, including the residents of the favelas. On the other hand, and although the Statute of the City allows for the delegation of key urban planning functions to municipalities, it has many gaps in its implementation since, as we have seen, the informal housing conditions continue to be a recurring trend in the city of Rio. However, continuing its commitment to equal urban planning, the Brazilian government created the Ministry of Cities in 2003, with the aim of helping states and municipalities to consolidate a new model of urban development that encompasses housing, sanitation, and urban transport<sup>166</sup>. Although with many gaps for its implementation, the Statute should be seen as an effort for the realization of the right to adequate housing (in its most utopian vision), and the improvement of living conditions in general, for the urban population of cities; or as experts highlighted, as a unique, ground-breaking legal instrument conceived by the widespread urban reform movement in Brazil<sup>167</sup>.

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<sup>164</sup> Ibid, in *The Statute of the Peripheral City*, by Maricato, E.' 5.

<sup>165</sup> Ibid 95.

<sup>166</sup> Ibid, in *'Foreword'* 3.

<sup>167</sup> Ibid.

## Evolution in Favela Policy: From Favela Bairro to Miña Casa Miña Vida

The Favela-Bairro urban programme was conducted between 1993 and 2007 by the government of the city of Rio de Janeiro, together with other universities and institutes, as well as with the help of the Inter-American Development Bank. The execution took 14 years, with 140 favelas (including large, medium, and small-sized favelas) and over 253.000 people benefitting from US\$600 million in investment<sup>168</sup>. The project was a very ambitious plan that needed a long period to be implemented efficiently and effectively, and because of this, the project became a long-term program that had to be executed in two main phases: the planning and designing of the developments and the implementation of the upgrades<sup>169</sup>. Some of the improvements made by this project included the replacement of wooden buildings with brick buildings and the removal of a home of dangerously steep slopes, the widening, and paving of the streets to allow better access, or the provision of basic services such as clean water, electricity and weekly rubbish collection. Moreover, residents were able to choose which improvements they wanted in their own community or which ones they consider as indispensable, so they felt involved in the process<sup>170</sup>.

Some of the achievements to highlight from this project relies on the social benefits by the increase on their standard of living. Moreover, the infrastructure of favelas improved aesthetically and functionally, and there was an increase also in literacy rates. While these changes also led to an increase in the value of the houses (due to the upgrades of the communities), at the same time, the Favela-Bairro project also showed a slight decrease in deaths caused by disease and illnesses (due to the increase in sanitation systems)<sup>171</sup>. Despite the success of the project and the improvements introduced regarding the informal housing crisis in many of the favelas, the non-continuity of the project meant that these improvements were not very helpful, as the inadequacy of the housing and the marginalisation of the poorest people in this respect has not yet been remedied. However, attention has to be given to it as it was the first time that the Brazilian government had come up with a plan to develop the slums' infrastructure and to integrate them into the formal city<sup>172</sup>.

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<sup>168</sup> Cabral, A on Rioonwatch (2014) *Favela-Bairro: 20 Years On*. Available at: [Favela-Bairro](#).

<sup>169</sup> Ibid.

<sup>170</sup> Ibid.

<sup>171</sup> Lam, M. The Favela-Bairro Project, in '*Synthesis Essay 2: The Favela-Bairro Project*'. Available at: [The Favela-Bairro Project](#).

<sup>172</sup> Ibid.

With the slogan *'Housing for people, income for workers and development for Brazil,*<sup>173</sup>' President Da Silva launched the *'Minha Casa, Minha Vida'* (My House My Life) in April 2009, to stimulate the production and acquisition of new housing for low-income people. To this end, the Programme created unique mechanisms to mobilize the private sector to build homes, affordable for this level of income, and established means to obtain subsidies and financing to offer the possibility of acquiring new homes<sup>174</sup>. As UN-Habitat explains, this programme was conceived with intelligence and practicality, as it 'does not break with the previous logic of government actions in the housing sector and incorporates several elements of previous programmes<sup>175</sup>.' This social program, intended to address affordability and security of tenure through affirmative action, allowed the acquisition of housing for families with incomes up to R\$1.8 thousand, and facilitated access to the property for families with incomes up to R\$9 thousand. Furthermore, with a gender-inclusive approach, the program had already prioritized women in the first phase (from 2009 to 2011), in which households headed by women signed 80% of the housing contracts<sup>176</sup>. In the second phase (from 2011 to 2014), protection was increased, and women enjoyed property rights in divorce cases, regardless of their marital status. In addition, in this same phase, the programme established new criteria for selecting beneficiaries that included or increased quotas for the elderly and persons with disabilities<sup>177</sup>. The program provided an excellent opportunity for municipalities to meet their housing needs by significantly increasing investments in social housing.

However, despite the planning done by the various actors involved in the program (see the Ministry of Cities or the CAIXA institution), it is the responsibility of the municipalities to ensure that the housing produced is adequate and well located, demonstrating, once again, the importance of localizing human rights, to obtain better results for the implementation of policies that focus their efforts on housing adequacy, as a fundamental human right. In this sense, MCMV gives priority in the distribution of funds to the municipalities that apply the instruments of the City Statute, so that the action

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<sup>173</sup> UN-Habitat (2013) *Scaling-up Affordable Housing supply in Brazil*. The 'My House My Life' Programme, in *'Chapter 2: The My House My Life Programme'*, pp.31. Available at: [UN-Habitat: Brazil Housing Supply](#).

<sup>174</sup> Ibid.

<sup>175</sup> Ibid 32.

<sup>176</sup> The HRBA for Housing and Slum Upgrading (n 110) 25.

<sup>177</sup> *Scaling-up Affordable Housing supply in Brazil* (n 147), in *'Chapter 4: My House My Life Programme II'* 97.

of the municipalities in the improvement of access to land for people with low income in well-located areas is essential<sup>178</sup>. The results of this programme were generally positive in terms of addressing the challenges posed by the lack of adequate housing for people with low or medium incomes. Besides, and because of its economic contribution to families, it helped to create jobs and boost the economy for these families<sup>179</sup>. The programme has also succeeded in implementing significant improvements and innovative solutions, particularly in terms of coordination between the various actors involved<sup>180</sup>.

Other programs and policies to improve housing have been launched in Brazil, in particular, in the city of Rio, without much success<sup>181</sup>. Many of them have focused on the demolition of houses, the displacement of people to other places, or the economic empowerment of families (for the later, see the programme 'Bolsa Família'<sup>xv</sup>). However, there have been no improvements in land recognition, the stigma it causes to society, or the improvement of the quality of life of the families that will continue to live in the favelas, for one reason or another. Although problems could be highlighted from both programmes mentioned, we must keep the positive side of them. Localised efforts by the government, to demonstrate that the implementation of programmes that localise them in a particular issue, and with a coordinated approach by the institutions and taking into account the rights of the most vulnerable, demonstrates the efficiency of urban planning programmes. Considering what urbanization means for cities, this type of policy must continue, with long-term planning of the same. The needs of favela residents must be appropriately identified, taking into account, above all, that needs may differ from one community to another and from one family to another. External factors such as violence, criminality, or the drug and arms business pose a problem for the implementation of these programmes, and a specific study of each favela is, therefore, necessary to accurately identify the elements of improvement concerning the realization of the right to adequate housing.

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<sup>178</sup> Ibid, in '*Chapter 3: The programme in action*' 88.

<sup>179</sup> Scaling-up Affordable Housing supply in Brazil (n 147), in '*Chapter 4: My House My Life Programme II*' 102.

<sup>180</sup> Ibid, in '*Chapter 5: Lessons and Conclusions*' 110.

<sup>181</sup> See a summary of some of the urban plans and its outcomes here: Andreatta, V. Rio de Janeiro: Planes de ordenación y orígenes de la urbanística carioca, 15-26. Available at: [Rio Policy Plans](#).

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<sup>xv</sup> **Programme Bolsa Família:** *«It is a cash transfer programme that contributes to the fight against poverty and inequality in Brazil. It was created in October 2003 and seeks to benefit families living in poverty and extreme poverty, that is, all families with a per capita income of up to BRL 85 (USD 27) and families with a per capita income between BRL 85.01 (USD 27) and BRL 170 (USD 53) as long as they have children and adolescents between the ages of 0 and 17 at their core. » See more: Bolsa Família.*

## CONCLUSION

The first conclusion that emerges from this work has to do with the answer to the research question proposed in the first moment for this academic research. In order to achieve the realization of the human right of adequate housing, improved urban planning in cities is needed to avoid the marginalization of vulnerable groups, as housing and urbanization are intrinsically linked in today's cities, thus, the realization of the right to adequate housing should be the number one priority of all cities. The perpetuation of inadequate housing limits the life opportunities of individuals because this right is intrinsically related to others of the same nature, which in addition to being represented as rights, are basic needs for any human being. In this sense, it is important to remember that a house is not just made up of walls and a roof but that it is made up of a set of indispensable elements that allow and improve the lives of all individuals. The obligations of the states towards the economic, social, and cultural rights are clear in terms of international human rights law. However, the continuous neglect of the same as rights of progressive realization has caused enormous consequences at a global level, leading to the perpetuation of informal or inadequate housing for those who have fewer resources. While human rights institutions and agencies are fully committed to the realization of this right, cooperation by local governments and institutions is essential for the full achievement of these goals at the global level.

Likewise, the recent consideration of this right at the international level, in conjunction with urbanization, presents a unique opportunity for the world's cities. While it is true that state sovereignty has always been above international guidelines, uneven patterns of urban growth have led the nations of the world to consider urban planning essential to the survival and sustainability of cities. Moreover, given the urban change not only of cities themselves but of the world at large, planning is essential to avoid the creation and proliferation of slums and informal settlements. In this sense, and as has been observed throughout this research, no reason has been found for the perpetuation of slums and informal settlements, since they are places where their residents lack all kinds of human rights, starting with adequate housing. In this sense, ignoring the problem of the lack of urban planning for city residents is nothing less than a violation of human rights. The possibilities that cities offer for improving the lives of individuals should not be neglected but somewhat encouraged and motivated, since the world in which we live is

expected to continue to follow these growth patterns for many years to come (addressed this on [CHAPTER II: URBANISATION AND URBAN GROWTH](#)). Furthermore, it should be borne in mind that it is not only the large cities that have suffered and will suffer from the consequences of the lack of organisation and urban planning but that the small urban centres will also be affected. If urban centres suffer population increases for one reason or another (immigration or exodus, among others), more significant investment will be needed in adequate, high-quality infrastructure to meet the demands of individuals.

Due in large part to international efforts to place housing at the centre of urban planning, new strategies have been developed to help mitigate the effects of housing and advocate for planned urban cities that take into consideration the human rights of all. The implementation of plans with a human rights-based approach that takes into account all individuals but emphasizes those who occupy a more vulnerable place in society is essential for their full effectiveness. In this sense, we have been able to observe how the commitments at the global level (see MDGs, SDGs), with legal or political character, have progressively included urban issues (and their nexus with housing) in the centre of the conversations between states. The RTAH and the rest of ESCR, must be understood as an obligation for responsible governments, and precisely because of their social nature, it is meaningless to believe that the policies proposed may lack equity.

While it is true that urbanization in many parts of the world is a relatively new phenomenon, we cannot fail to see it as a global priority because the consequences of it are immediate. The New Urban Agenda has developed a series of commitments at the global level, with the adequacy of housing as an essential core of all plans and policies. In this sense, the improvement of slums will be possible at the local level, first, if the different power hierarchies collaborate to ensure this. In addition, the human rights approach must be taken into account in the whole process, starting from the design, planning, implementation and, finally, the evaluation of the same. While it is true that all these conversations are born, mainly, within the United Nations, it is pointless to think that international declarations will be sufficient if there is a lack of cooperation at all levels. Therefore, while it is important that States join in promoting commitments of this nature, it should be these same States, within their borders, that carry out the appropriate planning. In this sense, one can admit that, although the urban patterns show us some general phenomena, the situation of each urban nucleus can easily differ, so the need for

cooperation at the local level is essential for the absolute effectiveness of these programs. Understanding this last point, the contextualization at the local level of the urban development phenomenon and its consequences is essential.

The study (although brief), of the city of Rio de Janeiro, has served to contextualize what has been studied above, in a specific local context, namely the favelas of Rio de Janeiro. Furthermore, it is essential to observe the formation of these neighbourhoods to effectively discover that the motivation for their creation (and their perpetuation), has to do with nothing more and nothing less than a question of marginality and social exclusion, in addition to the lack of urban planning. The most impoverished families in the cities are plunged into these inadequate environments without having any other option to hold on to. Moreover, if conditions are no longer adequate, the stigma that these slums carry worsens the opportunities for their development, leading to a cycle of generational discrimination, which is very difficult to break without effective available options. The empowerment of these families is essential to eliminate these stigmas once and for all so that, in addition, they themselves, with their money and their abilities, will be able to change the course of their lives.

The domestic implementation of the right to adequate housing should be studied in localised contexts, as urban policies and plans will be more effective in this way. Although it has not been possible in this thesis to make an in-depth analysis of the adequacy of the favelas in Brazil, the case and its problems have been presented, with the objective of being able to demonstrate the importance of this relationship and the patterns or conditions that are perpetuated in the homes of many families due to the lack of urban planning. Furthermore, we should not forget that, just as democratic transition is a process full of phases (and that requires time and commitment), urban transformation presents similar characteristics and should be carried out in accordance with a human rights rationale. This would help not only to build sustainable cities but to make them suitable for all individuals, regardless of the social group to which they belong. The study of the city of Rio de Janeiro and its inadequate housing, as well as the evolution of the urban plans proposed for its improvement, show us that: 1) there is a need for urban plans specific to the issues of each city, which will be useful if there is cooperation at all levels; 2) there is a need for empirical studies that understand and analyse the lifestyles of the most vulnerable groups in society, with the aim of carrying out strategic analyses that can develop specific plans, according to the urban planning patterns of each city in the short

term, but above all, in the long term; 3) the effectiveness of this planning will be reflected, above all, in the long term and that is why the implementation of these plans must be an organized objective in this sense, since it is impossible to modify the living conditions of individuals through the implementation of short-term plans, which, it has been demonstrated, only have the capacity to improve certain parameters or conditions, lacking a global perspective of the real problem.

The relationship between urbanisation and housing has fascinated me from the very beginning, especially considering that urbanisation can, very easily, be an agent of prosperity. Likewise, both the limitations encountered in the elaboration of this work in a more practical sense, and the immense number of challenges presented to cities, mean that this work ends with the intention of carrying out future research, which in turn seems relevant and necessary for the future of our urban environments, and for the well-being of all individuals.

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