

The Humanity of Urbanity: Human rights between the streets and citizens of Latin America

La humanidad de lo urbano: Derechos humanos entre las calles y los ciudadanos de América Latina

*Erin B. Koenig**

*La ciudad enorme que cabe en un cuarto de tres metros cuadrados inacabable
como una galaxia, la ciudad que nos sueña a todos y que todos hacemos y
deshacemos y rehacemos mientras soñamos,
la ciudad que todos soñamos y que cambia sin cesar mientras la soñamos,
la ciudad que despierta cada cien años y se mira en el espejo de una palabra y no
se reconoce y otra vez se echa a dormir [...] hablo de la ciudad, pastora de siglos, madre que nos engendra y nos devora, nos
inventa y nos olvida.*

*The enormous city that fits in a room three yards square, and endless as a galaxy,
the city that dreams us all, that all of us build and unbuild and rebuild as we
dream, the city we all dream, that restlessly changes while we dream it, the city
that wakes every hundred years and looks at itself in the mirror of a word and
doesn't recognize itself and goes back to sleep [...] I speak of the city, shepherd of
the centuries, mother that creates us and devours us, invents us and forgets us.*

*Hablo de la ciudad,
I Speak of The City,
Octavio Paz.*

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Introducción¹

Como Octavio Paz poéticamente señala, la ciudad es un organismo complejo que define un territorio geográfico y espacio social en el que viven 3.500 millones de personas en todo el mundo. Esto hace que un ambiente urbano pueda ser un foro muy poderoso para la promoción de los derechos humanos, la tolerancia, la equidad y la paz. Pero, paradójicamente, no es nada raro que la pobreza, la violencia y la segregación florezcan en esos espacios urbanos. Ciudades como Bogotá o Buenos Aires, entre las más urbanizadas del mundo en desarrollo, claramente validan la teoría de cómo una concentración de gente y de poder en las ciudades puede llevar a una distribución asimétrica de recursos y de provisiones. Claramente, la urbanización exponencial en América Latina ha llevado a una situación de ciudades que no pueden proveer o mediar las necesidades de sus habitantes. Las estadísticas muestran que en casi la mitad de las ciudades de la región existen áreas consideradas inaccesibles o peligrosas para la policía y que casi 40 por ciento de la población urbana en algunas ciudades vive en asentamientos ilegales².

Porque los derechos humanos se aplican a los humanos, por pura deducción, su marco debe aplicarse de manera proporcional en los lugares donde los humanos se encuentran. En un mundo que se urbaniza rápidamente, el acceso a los recursos y a los derechos se hace cada vez más contencioso; y los temas socioeconómicos se hacen cada vez más importantes, al lado de los temas vinculados a la democracia y derechos. Con esta aserción como punto de partida, este trabajo procura identificar a los derechos humanos no sólo como instrumento legal pero también como una estructura y vehículo para organizar una distribución equitativa del espacio urbano y su sociedad. Basándose en los asentamientos fortificados coloniales y su equivalente contemporáneo de comunidades encerradas en ciudades como México o Sao Paulo, este artículo demuestra como algunos espacios erradican el capital social, promueven la intolerancia e inhiben la realización de derechos. Mediante la reducción de espacios compartidos, los derechos humanos en sí son comprometidos; cuando algunas personas ven su acceso prohibido a ciertas áreas y no comparten espacio común, los principios de igualdad y libertad se transforman en pura ficción.

¹ Many thanks to Marcello Scarone Azzi, Program Specialist in UNESCO's Fight against Discrimination and Racism Section, for his translation assistance and support.

² UN Habitat. *Habitat Debate: Cities at Risk*. Vol. 7 (4), December 2001.

Considerando que la segregación urbana contraviene al objetivo y carácter de la provisión universal, la discusión intentará explorar como los derechos humanos pueden ayudar, y en algunos casos ya se aplican, para promover y “proteger” un espacio para su correcta aplicación.

Como una región que lucha por institucionalizar la democracia y los derechos humanos, al mismo tiempo que asimila una rápida urbanización, la manera en que América Latina asuma esto puede traer grandes consecuencias. Por supuesto, un ambiente construido no puede definir un comportamiento por si mismo o independientemente ejecutar los derechos humanos, pero puede ser configurado de tal manera que facilite ciertas relaciones y mejor satisfaga necesidades universales. Ergo, ciudades democráticas e incluyentes pueden mantenerse y enriquecerse por la inyección de derechos humanos en sus calles y entre sus ciudadanos.

Introduction

As Octavio Paz poetically elucidates, the city is a complex organism that defines geographic territory and social space for 3.5 billion of the world's inhabitants. This renders urban environments powerful for promoting human rights, tolerance, equality and peace. Yet paradoxically, it is not uncommon for poverty, violence and segregation to thrive within urban spaces. Cities such as Bogotá and Buenos Aires, located in the most urbanized region of the developing world, clearly validate how the concentration of people and wealth in cities can lead to asymmetrical distribution of resources and entitlements. Indeed, Latin America's exponential urbanization has built a legacy of cities unable to meet or mediate the needs of their inhabitants. Current statistics show that almost half of the region's cities have areas considered inaccessible or dangerous to the police while over forty percent of the urban population in some cities is housed illegally.³

As human rights apply to humans, by extension such a framework should focus proportionately on where humans gather. In a rapidly urbanizing world, access to resources and rights becomes increasingly

³ UN Habitat. *Habitat Debate: Cities at Risk*. Vol. 7 (4), December 2001. According to the Canadian Federal Government Department of Foreign Affairs, Human Security and Cities Program, 48% of cities in Latin America and the Caribbean have areas considered as inaccessible or dangerous to the police. UNHabitat cites statistics which place the percentage of household living in extra-legal arrangements at 59 percent in Bogotá, 50 percent in Caracas, Sao Paulo and Quito and 40 percent in Mexico City and Lima.

contentious; socio-economic issues come to the fore, alongside those of democracy and entitlement. With this as a point of departure, this paper seeks to identify human rights not only as legal instruments but also as a structure and means of organizing equitable urban space and society. Drawing on fortified colonial settlements and the contemporary prevalence of gated communities in cities like São Paulo and Mexico City, this article demonstrates how certain spaces erode social capital, encourage intolerance and inhibit the realization of rights. By reducing shared spaces, human rights themselves are challenged; when some people are denied access to certain areas and do not share common space, principles of equality and freedom become no more than an illusion. Considering that urban segregation contravenes the object and purpose of universal entitlements, further discussion will explore how human rights can be and, in some cases, are already applied to promote and protect 'space' for their application.

As a region struggling to institutionalize democracy and human rights while coping with rapid urbanization, the shape that Latin American cities assume has broad consequences. Of course, the built environment cannot directly define behavior nor independently realize human rights but it can be configured to facilitate certain relations and better satisfy universal needs. Ergo, democratic, united and inclusive cities will be best maintained and enriched by infusing human rights into both their streets and citizens.

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An important preface to any discussion of Latin America is the acknowledgment that, far from homogeneous, it is a region that encompasses great variation in national, cultural and politico-historical development. Nevertheless, it also holds true that certain patterns and social challenges are common amongst its constituent nations, especially in the case of urbanization.

1. Mapping inequality

1.1 Foundation

Cities have long been present in the Americas, as demonstrated by the Aztec capital of Tenochtitlán (Mexico) and the Inca capital of Cuzco (Peru), which offer archaeological proof of the complex urban networks and social relations that thrived during the pre-Columbian period. Already populated by approximately 100,000 people in A.D.

500, Tenochtitlán was the largest pre-Columbian city and reached 300,000 by the time it was destroyed by Cortés in 1521.⁴ Maya sites such as Copan and Tikal were also densely populated administrative and social centers.

European contact with the Americas yielded immediate and grave effects and, as political and economic control rested on spatial dominance, the reconfiguration of urban settlements was almost immediate. Within the ‘Law of the Indies’, imposed in 1573 by King Philip II of Spain, was a set of ordinances mandating urban design for newly conquered territories: “The plan of the place, with its squares, streets, and building lots is to be outlined by means of measuring by cord and rule, beginning with the main square from which streets are to run to the gates and principal roads and leaving sufficient open space so that even if the town grows it can always spread out in a symmetrical manner.”⁵

In imposing this grid system, the main plaza was often juxtaposed onto the religious and culturally meaningful sites of indigenous populations. Such acts colonized the territory alongside the people, asserting European spatial dominance and further obliterating any indigenous territorial claims. The main plaza became a locus of power, where administrative, religious and judicial buildings were situated, alongside the homes of Spanish colonizers. As Griffin and Ford (1980) identify, it was “almost by decree [that] increased distance from the plaza, the core of urban activity, meant decreased social and economic status for residents.” To be sure, those who controlled space, controlled society.

Areas of concentrated settlement no longer existed to address the needs of Americans but acted rather as points of relay and defense, walled cities conceived across the Atlantic and exported to the ‘new world’ for the purpose of exploration and exploitation. Fortified, divided cities characterized Hispanic-American urban settlements and behind their walls “gathered a group of armed men who had to make war in order to occupy the land and extract the riches they assumed were hidden within it.”⁶ Through constructing a built environment in this

⁴ RetaNET. *Resources for Teaching About the Americas*. University of New Mexico, available at <http://retanet.unm.edu/> [accessed 6 April 2006]. 2006.

⁵ Sennett: 49.

⁶ Romero, Jose Luis. *Latin American, its cities and ideas*. Inter-American Agency for Cooperation and Development. Organization of American States. 1999. Originally published as *Latinoamérica, las ciudades y las ideas* (1976).

manner, there was little chance of social or spatial convergence between colonizers and colonized. This chasm, however, served a distinct purpose as physical distance removes or, at the very least, diminishes the possibility of personal contact. In its absence, colonialization could march forward without the interference of empathy.

Transportation, commerce and administrative infrastructure supporting raw material extraction and slavery permeated the continent. By 1580, Spaniards presided over 225 populated settlements and by 1620, Mexico City boasted 100,000 inhabitants; Salvador da Bahia in Brazil, 21,000; Lima, 9,500; and in Recife, 8,000. The economic anchor of the Americas, Bolivia's mining center of Potosí, grew to 160,000 people by 1650, making it the largest city in South America.⁷

This spatial engineering was coupled with calculated immigration policies, which brought women, missionaries and experienced bureaucrats to the New World to ensure, among other things, "stable families who would lead a normal life, just as they would in any city in Spain, following their customs, dealing with the problems of daily life, observing and celebrating their holidays."⁸

However, despite these efforts, there remained an insufficient number of Spanish women in the Americas and the unavoidable reality of racial integration materialized in a *mestizo* population. This demographic swiftly surpassed the European population and complicated previously straightforward spatial segregation. *Mestizos* began to claim space through establishing settlements, termed '*Villas de Vecinos Libres*', whereby they competed for political and economic power.⁹ Despite being constructed independent of the Spanish, the shape that their *villas* took nevertheless adopted a similar urban configuration to that imposed by the Europeans.

Thus, socially and spatially, the historical foundation of divided, unequal urban space was laid through an exploitative process imposed by colonial rule. In the centuries that followed, this framework was solidly embedded through practice and reproduced by local elites.

⁷ Ward, Peter M. "Cities and Urbanization." In *Encyclopedia of Latin American History and Culture*. Barbara A. Tenenbaum, ed. New York: Charles Scribner's Sons. Volume II. p. 165. 1996.

⁸ Romero, Jose Luis. *Latin American, its cities and ideas...* 1999.

⁹ In Colombia, the city of Medellín is an outstanding example of a *mestizo* settlement that displaced its Spanish counterpart, Santa Fé de Antioquia (Gaventa and Valderrama, 1999).

1.2 Segregation

Although the growth of cities progressed across the hemisphere, it wasn't until the economic crisis of the early twentieth century that urbanization began its exponential rise. Migration and high birth rates combined to trigger the quantitative growth of cities and, by mid-century, eight capitals passed the one million mark, thereby joining ranks with the largest cities of the world.¹⁰

Growth was astronomical and unavoidably altered the composition of urban environments unprepared to absorb the human influx. In his book, *Lima, la horrible*, Peruvian Sebastián Salazar Bondy compiled his observations on this process of urban 'disfiguration':

[Lima] has become a world of two million people, pushing and shoving amid the din of honking horns, uncivilized radios, human congestion, and other forms of modern-day madness in order to survive. Two million inhabitants forcing their way through the beasts that massive underdevelopment makes of men... The bottleneck of vehicles in the city center and on its avenues, the rude competition of peddlers and beggars, the tiresome lines for the inadequate transportation services, the housing crisis, the disasters caused by pipes that break, the imperfect telephone system.¹¹

Lacking the infrastructure, resources or foresight to cope, cities increasingly succumbed to social and spatial deterioration as Bondy's observations accurately document. However, what he fails to mention is that all inhabitants did not experience the consequences of rapid urbanization in the same manner. With the advent of motorized transport, the upper classes were able to flee the city center in mass exodus, thus evading the effects of crumbling or non-existent infrastructure, lack of housing, increasing crime and pollution. Those pouring into cities were instantly funneled into certain areas, marginalized from established urban society and excluded from municipal infrastructure. In this process, the Latin American slum settlement was born.

¹⁰ Mexico City and Buenos Aires, had over 8.5 million inhabitants while four capitals—Santiago, Lima, Bogotá, and Caracas—experienced a dizzying rate of growth. Santiago, which was close to one million in 1940, had a population of 2,600,000 thirty years later; but in that same space of time, Lima went from 600,000 to 2,900,000; Bogotá from 360,000 to 2,540,000, and Caracas from 250,000 to 2,118,000 (Romero, 1999).

¹¹ Cited in Romero, 1999.

By the 1950s, a definite pattern was taking shape in most Latin American cities, in which the rich lived in the most environmentally attractive areas of the city with the poor relegated elsewhere.¹² In São Paulo in 1970, “over three quarters of families in the top income bracket... lived in seven districts within a radius of approximately 7 kilometers to the south and west of the city.”¹³ As a point of articulation for relationships, the city was literally being built to maintain barriers between different socio-economic and racial groups, just as in the colonial past.

However, the pattern of segregation was not entirely straightforward, a situation geographer Alan Gilbert (1996) attributes to three key dynamics. Firstly, an expanding urban population and area have necessitated contact between affluent and lower-income areas, once separated by undeveloped land. This is illustrated in Bogotá, where the affluent north now brushes against the low-income settlements of the periphery, clustered around the quarries of Usaquén (see Annex I). In reference to these maps, there is an interesting consolidation of higher income property as contact with lower-income areas increases. Whereas separate neighborhoods may have existed in the former map, the latter demonstrates a clear preference toward expanding affluent areas into a larger homogeneous sector.

The second complicating factor cited is the growing middle class, which could not afford land in wealthier areas and hence, settled on land close to low-income areas. Middle class suburbs were built, for example, in the west and southwest of Bogotá during the 1970s¹⁴, a contemporary location that would have been inconceivable in the past. Their presence acts as a buffer between other socio-economic extremes.

¹² In Rio, exclusive enclaves such as Copacabana, Ipanema, Leblón, Gavea, and Tijuca took shape; in Santiago, Providencia and Tobalaba; in Caracas, Sabana Grande, and Chacaito; in Bogotá, Chapinero and Chicó; in Montevideo, Pocitos and Carrasco; in Buenos Aires, the Barrio Norte and San Isidro; in Lima, Miraflores and Monte Rico; in Mexico City, San Angel and Pedregal (Romero, 1999). Gilbert, A. (ed.). *The Mega-City in Latin America*. Tokyo, United Nations University Press. 1996.

¹³ Batley, R. *Power through bureaucracy: Urban political analysis in Brazil*. Hampshire, Gower Publishing. 1983, p. 102.

¹⁴ Gilbert, A. and P. Ward. *Housing, the state and the poor: Policy and practice in three Latin American cities*. Cambridge, Cambridge University Press. 1985, p. 116.

Thirdly, variegated topography has also contributed to blurring the precise pattern of segregation; as Gilbert¹⁵ articulates “hilly cities are arguably less clearly polarized than flat cities.” Caracas and Rio de Janeiro are ideal examples of this process, where an abundance of steep slopes in urban areas have traditionally held little commercial value. Accordingly, such ‘undesirable’ spaces remained under municipal control until urbanization took hold. Then, city administrations increasingly came under pressure from low-income groups for land and housing, which resulted in the establishment of *barrios* and *favelas* in close proximity to, but segregated from, high-income and middle-income areas. In Caracas, this process has occurred in the topographically accentuated terrain of the south and southeast of the city where a ‘functional symbiosis’ has developed –wealthy communities provide work for maids and manual laborers while the barrio provides the cheap labor.¹⁶

1.3 Apartheid

As this brief historical swath conveys, urban segregation is woven tightly through much of Latin America’s colonial past. Current patterns simply embed and exaggerate urban divisions further, as the sustained local movement toward middle and upper-class neighborhoods of fences, iron bars and walls suggests.

Teresa Caldeira has done extensive research on gated communities in Brazil, and numerates office complexes, shopping centers, schools and hospitals as some of the amenities within the prototypical fortified enclave. The residential component is the *condomínio fechado*, closed condominium, which can be oriented in a vertical or horizontal manner –luxury apartments and enclosed security suburbs respectively.¹⁷

As crime rates in Brazil have amplified, citizens are increasingly turning to the fortified enclave as a housing option. Psychologically, fortified enclaves entice inhabitants by playing on security concerns. Considerable research exists on the connection between fear of crime and the physical environment, perhaps best represented by the work

¹⁵ Gilbert, A. (ed.). *The Mega-City in Latin America*. Tokyo, United Nations University Press. 1996.

¹⁶ *Ibíd.*

¹⁷ Caldeira, Teresa P.R. *City of Walls: Crime, Segregation, and Citizenship in São Paulo*. Berkeley, University of California Press. 2000.

of American architect Oscar Newman. In his publication *Defensible Space*,¹⁸ Newman contends that crime can be controlled and mitigated through the built environment by addressing four factors: *territoriality*, the idea that one's home is sacred; *natural surveillance*, the link between an area's physical characteristics and the residents' ability to see what is happening; *image*, the capacity of the physical design to impart a sense of security; and *milieu*, features affecting security, such as proximity to a police substation or busy commercial area.

Although crime is a tangible social problem in Latin America, in most cases segregation responds not to the crime itself but rather fear. Thus, Newman's theory is not without merit but statistics show that spatial exclusion can also correlate to the precipitation of violence,¹⁹ when compounded by social, economic and cultural factors. Moreover, ethnographic research has shown that crime prevention and security are but one motivating factor for the establishment of segregated spaces.

Based on long-term field research, Giglia compared five different forms of walled neighborhoods in Mexico City, within the context of a stratified society experiencing severe urban issues. She discovered that segregated urban spaces did not only result from fear of crime; they simultaneously provided a method for escaping urban disorder, establishing homogeneity and elevating social status. "These are valuable places because they are different from the rest of the city, where streets are full of heterogeneity [and] huge inequalities."²⁰

Through the increased popularity of gated communities, the 'outside' world also changes, as certain groups no longer engage in public space. As Landeman and Schönteich²¹ identify, these spaces are now "abandoned to the poor, the homeless and street children, who are left vulnerable to violence and abuse by various control groups, including criminals and the security forces." Furthermore, social boundaries become rigid and residents of all social groups have a sense of exclusion and restriction. "For some, the feeling of exclusion is obvious, as they are denied access to various areas and

¹⁸ Newman, Oscar. *Defensible Space*. London, Architectural Press. 1973.

¹⁹ Moser, C. and McIlwaine, C. "Latin American Urban Violence as a Development Concern: Towards a Framework for Violence Reduction", *World Development*, (34) 1, 2006. p. 90.

²⁰ Giglia, Angela. Gated communities in Mexico City. *Gated Communities: Building Social Division or Safer Communities?* Glasgow, September 18-19, 2003. p. 10.

²¹ Landeman, K. and Schönteich, M. "Urban Fortresses: Gated Communities as a reaction to crime". *African Security Review*. 11(4). 2002. p. 8.

are restricted to others. Affluent people who inhabit exclusive enclaves also feel restricted; their feelings of fear keep them away from regions and people that their mental maps of the city identify as dangerous.”²² In this way, fear becomes the psychological barrier that parallels the physical divisions in the city.

Contemporary urban issues are deeply rooted in the historical legacy of the past. Just as the conquistadors built their settlements to reinforce a power structure and defend a specific way of life, fortified enclaves do the same. In highly stratified societies, where resources and entitlements are poorly distributed, walls allow for disparity to be ignored and human rights issues to remain unresolved. As such, Latin America’s current challenge is to understand rights and democratization concerns from a spatial perspective.

According to cultural theorist Paul Virilio,²³ if a solution is possible, it lies in reorganizing the place of communal life so as to regain contact. As human rights themselves seek to build a more compassionate and just world, and democracy necessitates the participation of all citizens, the topic of spatial dynamics and exclusion must be broached. If the shape of Latin American cities continues to be relegated to the contingent, solutions to urban problems will continue to elude the region.

2. Building parity

2.1 Space for rights

In their barest codified form, human rights are an inventory of that which governments cannot do to their citizens and that which they are under obligation to provide. Although they are taken to be universal, indivisible, interdependent and interrelated,²⁴ human rights are commonly categorized within the following areas: civil, political, economic, social and cultural. Numerous international and regional instruments exist for the protection of individual and group entitlements, which subsequently provide the fundamental anchor for rights-based discourse and the establishment of related jurisprudence.

²² Caldeira, Teresa P.R. *City of Walls: Crime, Segregation, and Citizenship in São Paulo*. Berkeley, University of California Press. 2000. p. 324.

²³ Virilio, Paul. *Politics of the Very Worst*. Cambridge, MIT Press. 1999.

²⁴ Vienna Declaration and Programme of Action 1993, Sec. I, Par. V.

In terms of implementation, human rights are enacted in society and it is through this empirical application of legal principles that equality and freedom are given life. In other words, “law is, as it were, produced... in spaces; those spaces in turn are partly constituted by legal norms.”²⁵ Thus, rights are an essential tool in producing space for their own realization.

As a region, Latin America is actively engaging in democratization and the implementation of human rights, with varying degrees of success. Certainly voting rights are now widely accepted and elections take place at regular intervals under comparatively peaceful conditions. Nevertheless, poverty is pervasive and economic, social and cultural rights remain largely unrealized. Analyzing these contemporary challenges from a spatial perspective offers fresh insight as why this might be the case.

According to Lefebvre²⁶ “a revolution that does not produce a new space has not realized its full potential; indeed it has failed in that it has not changed life itself, but has merely changed ideological superstructures, institutions or political apparatuses.” For human rights to be successfully introduced in the region as a legal and ideological framework, spatial and social structures must also change accordingly. Exposing the geography of injustice is essential in developing social structures that are more just.²⁷

Indeed, it is the actuality of life and lived experience in which equality and discrimination are experienced. Therefore, even if legal norms are adopted, unless the social context for their implementation is also modified, change remains unlikely.

It comes as no surprise that grave spatial violations frequently occurred under the watchful eye of Latin American military regimes. Between 1979 and 1985 during Pinochet’s rule in Chile, some 28,700 families in Santiago were forcibly moved from central areas and affluent eastern suburbs into the communes of the far south and the northwest of the city.²⁸ However, in many Latin American countries such violations still occur today. Amnesty International recently drew

²⁵ Blomley in Mitchell, Don. *The Right to the City*. New York, Guilford Press. 2003.

²⁶ Lefebvre, Henry. *Key Writings*. Oxford: Blackwell Publishers. 2003. (1991, p. 54).

²⁷ Mitchell, Don. *The Right to the City*. New York, Guilford Press. 2003. p. 30.

²⁸ Gilbert, A. (ed.). *The Mega-City in Latin America*.

attention to forced evictions taking place in São Paulo, a city well known for its chronic shortage of housing for the poor. With the help of local NGOs, some low-income families have begun squatting in empty buildings, to which municipal authorities have responded with riot police using batons, CS gas, pepper spray and rubber bullets.²⁹ On March 30, 2006, municipal authorities in São Paulo were preparing to forcibly evict 468 families from a derelict building in the center of the city that they have occupied for over two years, in order to clear the site for commercial development.³⁰

Brazil is a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), and thus obliged to ensure all citizens have adequate housing, and that no one is made homeless as the result of an eviction. It is also a party to the International Covenant on Civil and Political Rights (ICCPR), in which Article 12 (1) guarantees to everyone lawfully within the territory of a State the right to liberty of movement and choice of residence.

The prevalence of segregation and inequitable distribution and access to space in Latin America is a fundamental human rights issue. As Caldeira rightly asserts, “when some people are denied access to certain areas and when different groups are not exposed to interact in public space, references to a universal principle of equality and freedom in social life are no longer possible, even as fiction.”³¹

2.2 Spatial Rights

Currently, no specific legal provisions exist wherein spatial rights are explicitly identified. However, this is not to say that related entitlements are not provided for under international law.

²⁹ According to Amnesty International, in August 2005, 79 families occupying a five-story building on Rua Plínio Ramos, in the centre of town, were confronted by riot police. During the eviction, the police ordered all women and small children to leave, and then entered the building and beat several of the men and boys, some as young as 14. This was one of five violent evictions carried out by the municipal government during 2005.

³⁰ Amnesty International, 19/013/2006.

³¹ Caldeira, Teresa P.R. “Fortified Enclaves: The New Urban Segregation”... p. 325.

For example, a *claim to space* is enabled under Article 11³² of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which guarantees the right to adequate housing. This provision manifestly grants individuals a certain living space and, moreover, mandates that it be of an adequate standard. It provides a platform for challenging segregated cities, where a sizeable majority lives on the literal, symbolic and inadequate ‘outside’.

Along this vein, *access to space* is implicitly guaranteed under Article 22³³ of the International Covenant on Civil and Political Rights (ICCPR) and Article 15³⁴ of the American Convention on Human Rights (ACHR). To read these provisions spatially, one must concede that public space is essential for this right to be realized. Indeed, as it cannot be denied that humans inhabit physical space, one must then consider the following implication: “no one is free to perform and action unless there is somewhere [they] are free to perform it.”³⁵ Universal association cannot exist unless all people are universally able to engage in spaces.

Further, one must consider the concept of meaningful speech and action as a method of *defining space*. According to Hannah Arendt,³⁶ the marginalized are often stripped of the ‘right to have rights’, which she defines as “the deprivation of a place in the world which makes opinions significant and actions effective.” Enshrined in Articles 18 and 19 of the ICCPR and Article 13 of the ACHR, the freedoms of thought and expression can only be consequential insofar as they are heard and respected by others. It is not enough for urban residents to simply have access to space alone, as this space must necessarily embody

³² ICESCR, Article 11, Para. 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.

³³ ICCPR, Article 22, Para. 1: Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

³⁴ ACHR, Article 15: The right of peaceful assembly, without arms, is recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and necessary in a democratic society in the interest of national security, public safety or public order, or to protect public health or morals or the rights or freedom of others.

³⁵ Waldron in Mitchell, Don. *The Right to the City...* p. 27.

³⁶ Cited in Parekh, Serena. “A meaningful place in the world: Hannah Arendt on the nature of human rights”. *Journal of Human Rights*. 3 (1). March 2004, p. 45.

social relations. Without the ability to engage in meaningful public communication and interaction, the individual is torn from the fabric of society and human rights are undermined through segregation.

A further inventory of legal instruments could be undertaken but the point is simply to illustrate that existing human rights instruments provide a basis on which spatial claims and entitlements can be defended. The discourse need only embrace this flexibility and then apply it.

3. Charting the Future

3.1 Placing difference

The ability to raise issues and determine the shape of institutional and social relations crucially depends on the existence of spaces and forums to which everyone has access.³⁷ Citizenship is very much constructed on a daily basis, in society, rather than the periodic casting of electoral ballots. Shared public spaces are vital for the realization of universal rights and establishment of functional democracy, as well as the establishment of a flexible and representative community.

Such spaces traditionally play host to the essential dialectic of “inclusion and exclusion, order and disorder, rationality and irrationality, violence and peaceful dissent.”³⁸ As the physical embodiment of the public sphere, shared spaces facilitate access to political power, representation and communication. To be sure, public spaces very rarely grant free access to everyone; their importance lies rather in providing a potential forum for groups to demand access.³⁹

Public space is also essential in the sense that it embodies heterogeneity; as Aristotle noted “a city is composed of different kind of men; similar people cannot bring a city into existence”⁴⁰. Encountering difference serves a crucial purpose –as difference among

³⁷ Young, Iris Marion. *Justice and the Politics of Difference*. Princeton, Princeton University Press. 1990. p. 240.

³⁸ Mitchell, Don. *The Right to the City*... p. 51.

³⁹ Marginalized groups in Latin America have a long history of ‘taking to the streets’ in protest, demanding the right to participate and be represented. Recent examples include the Madres de Plaza de Mayo in Argentina, the anti-privatization ‘Water Wars’ in Cochabamba, Bolivia in 2000, and indigenous movements such as the Zapatistas in Chiapas, Mexico.

⁴⁰ Sennett, Richard. *Flesh and Bone*. New York, W.W. Norton & Company. 1994. p. 13

the undifferentiated allows for identification between men and women, children and adults, healthy and differently-abled, facilitating the assumption of individual identities. With this in mind, the claim can be made that “social distinctions are extremely valuable, quite apart from being unavoidable; there is no way to negotiate an undifferentiated world.”⁴¹ It must be kept in mind, however, that heterogeneity is not without its complications. Difference can easily mutate into exclusion, whereby disproportionate amounts of power and space are conceded to certain groups.

Human rights are an attempt to balance different claims and identities through providing a framework for conflict resolution between citizens. It is this reciprocal nature of rights which makes them social, thereby committing societies to deliberation.⁴² With this in mind, it is important to note that human rights principles do not necessitate the prohibition of segregated communities. In fact, multiple human rights documents instrumentalize a right to privacy⁴³, rendering the choice of wealthy citizens to live in compounds as valid as the decision of a poor rural farmer to move to the city. Only when society and settlements are built so that not all members have meaningful access to the full range of activities and services that encompass public and private spheres are human rights principles contradicted. When this occurs, and human rights are left unrealized, they simultaneously become useful tools with which to challenge inequality.

3.2 Right to the City

Although it is not explicitly included in any international human rights instruments, the ‘right to the city’ is gaining attention as a powerful rights-based entitlement for urban dwellers. French Marxist Henri Lefebvre originally developed the concept in his publication *Le droit a la ville*, as a method for defending the right of inhabitants

⁴¹ Hastrup, Kirsten. “Toleration: Making Room for Difference”. In Kirsten Hastrup and George Ulrich (eds.) *Discrimination and Toleration*. London, Kluwer Law International. 2002. p. 78.

⁴² Ignatieff, Michael. *The Rights Revolution*. Toronto, House of Anansi Press, Inc. 2000. p. 32.

⁴³ The right to private life can be found within Article 11 of the American Convention on Human Rights as the ‘right to privacy’, Article 8 in the European Convention on Human Rights as the ‘right to private life’ and the International Covenant on Civil and Political Rights in Article 17, Para. 1 as “1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation.”

to their spaces. Lefebvre argued that contemporary individuals are a synthesis of many influences and must therefore be acknowledged in the context of distinct social practices and habitat, among other things. In response to this reality, as well as the critical urban challenges that accompany it, Brazil has enacted a groundbreaking legal instrument, "The City Statute,"⁴⁴ which acknowledges the obligation of urban municipalities in the realization of their inhabitants' human rights.

The City Statute has four main dimensions, which together enable a reinterpretation of the relationship between urban property and residents. According to this law, municipal governments are invested with the task of controlling urban development through territorial and land use policies. These, in turn, mandate the coexistence of individual property owners, general social and cultural interests, as well as the city as a whole.⁴⁵ Ultimately, municipal administrations are invested with more power to determine and, if necessary interfere in urban land use patterns based on their connection to social exclusion and spatial segregation in Brazil. Alongside the increased powers of municipalities, the City Statute also emphasizes the need for municipalities to integrate urban planning, legislation and management so as to democratize local decision-making and enable broad-based community participation.

Of course, as this paper contends, the effective materialization of legal policy rests on modified social practice. Nevertheless, municipal reform has already occurred in several municipalities,⁴⁶ where laws, plans and programs have been formulated in order to combine land, housing, urban, tax and socio-economic policies seek to promote social and spatial integration.⁴⁷ Moreover, in April 2004 the National Council of Cities was established in Brasilia, invested with power on matters related to national urban and housing policy.

In applying human rights in this manner, spatial practices are democratized and a new platform is created on which inhabitants can determine the urban spaces that best meet their needs. Individuals are legally empowered to challenge corporate actors and these businesses are made accountable to the community to which they belong. This affords each urban inhabitant the opportunity to participate in and

⁴⁴ Brazilian Federal Law No. 10.257, enacted on 10 July 2001.

⁴⁵ Fernandes, 2005.

⁴⁶ This has been reported in the following Brazilian municipalities: Porto Alegre, Diadema, Santo Andre, Sao Paulo, Belo Horizonte and Recife.

⁴⁷ Fernandes, 2005.

influence their surroundings, thus reducing conflict while increasing respect for human rights, granting dignity and fostering a culture of peace.

3.3 Cities Against Racism

In the same way that building practices and urban spaces can be proscribed *vis-à-vis* legal instruments, they can also be promoted through the provision of best practices. Such is the intent of UNESCO's International Coalition of Cities Against Racism, which seeks to establish a worldwide network of municipalities for the exchange of experiences, expertise and good practices relating to urban anti-discrimination policy. As cities have a unique autonomy, they are empowered with great potential for inventing "new forms of urban citizenship and new ways of living together."⁴⁸ Based on this foundation, representatives from more than 140 European cities gathered to unanimously approve a Regional Coalition of Cities Against Racism in 2004; Canada has since achieved the same in principle. As of April 2006, Montevideo (Uruguay), has signed on as lead city for Latin America and work is currently underway to develop a regional network.

The basis of the universal doctrine of rights, which designates humans as both bearers and recipients of tolerance, is shared by the Coalition initiative. At its base is a ten-point plan of action that seeks to "strengthen vigilance against racism, encourage programs of equality with regard to employment, to provide better support to victims of racism and for policy evaluation."⁴⁹ Each region can independently adapt the plan to its own specificities; Canada has chosen to highlight the need to "promote respect, understanding and appreciation of cultural diversity and the inclusion of Aboriginal and racialized communities into the cultural fabric of the municipalities." As Latin America launches their regional initiative, perhaps the challenge of urban segregation might find its way into discussion.

This has already occurred with establishment of the *Belfast-Jerusalem Civil Society Partnership*, a network based at the University of Ulster in Northern Ireland which seeks to address the effects of urban intolerance. According to Thomas Fraser, Provost of the University, it

⁴⁸ UNESCO, 2005.

⁴⁹ Ibid.

is intended so that cities coming together, or moving apart, can learn from each other's mistakes through examining best practices that have evolved in 'divided cities.'⁵⁰ The closer that one is emotionally and spatially, the more difficult it is to build walls. Based on their work, Fraser suggests, "it actually becomes more difficult to fight and to hate someone if you are actually able to recognize them. If you literally don't see the enemy, then... it becomes easier to fear them and hate them."⁵¹ It seems there is a very spatial character to toleration that must be acknowledged in the construction of a just public sphere.

Conclusion

As the city is both a social and spatial locus for humans, urbanity must be analyzed in relation to humanity. In this respect, this paper contends that the fragmented and violent urban spaces of Latin American cities represent an inescapable barrier to the implementation of democracy and human rights.

Indeed, spaces of representation emerge from spaces of universal dignity, where a "new understanding of the human condition imparts a radically new meaning to an old principle."⁵² In this way, by applying human rights principles and spatial perspectives to contemporary urban challenges, cities can be constructed to encourage certain relations and better meet the needs of inhabitants.

The built environment neither circumscribes behavior nor realizes human rights directly but it is too often the case that power and powerlessness share the same human-made boundary, preventing society from democratic governance. Space must therefore be organized and structures built so as to acknowledge all citizens share the same entitlements. Open and safe public spaces breed tolerance and act as a venue for the realization of rights whereas the prevalence of gated communities is part of a continued architectural obstacle to democratization in Latin America. Bearing this in mind, the cities of the region must reconsider their configuration, so as to promote and convey democratic, united and inclusive citizenship. This is absolutely

⁵⁰ Fraser, Thomas. Interview with Ana Maria Tremonti. "Divided Cities", on *The Current*. Radio One. Canadian Broadcasting Corporation. 25 March, 2005. Toronto, Canada.

⁵¹ Ibid.

⁵² Taylor, Charles. *Multiculturalism and the Politics of Recognition*. Princeton, Princeton University Press. 1992.

essential because, as Richard Sennett⁵³ reminds us, “the city is not just a place to live... it is a space that implicates how one derives one’s ethics, how one develops a sense of justice, how one learns to talk with and learn from people who are unlike oneself, which is *how a human being becomes human* [emphasis added].”

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⁵³ Sennett, Richard “The Civitas of Seeing”, *Places*. 5 (4). 1989.

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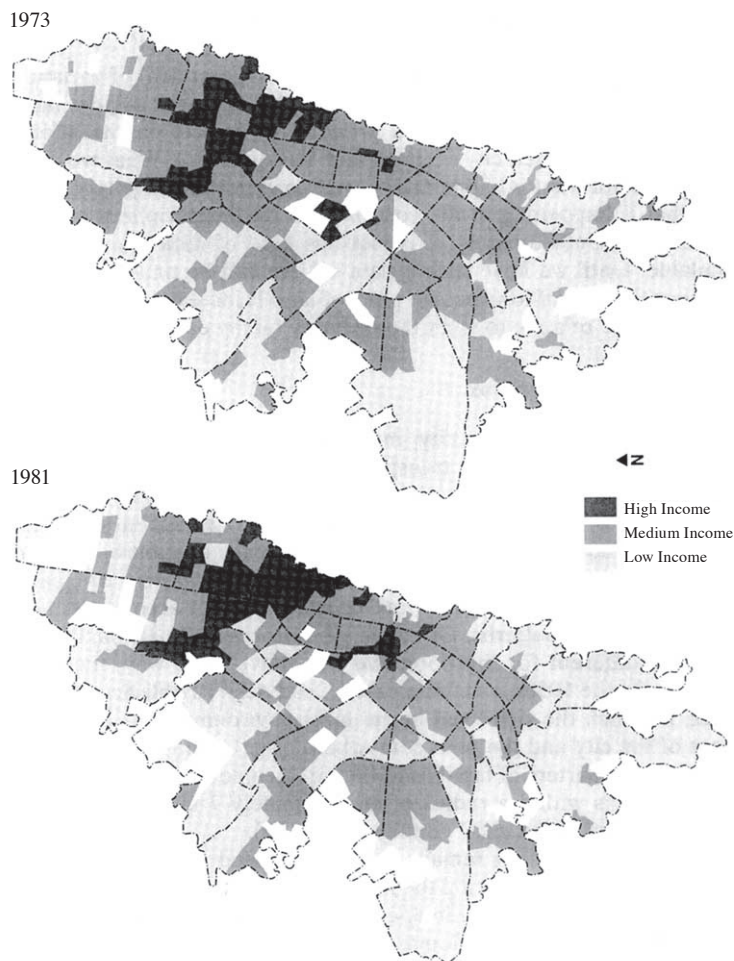
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Annex

Bogotá, Colombia: Residential segregation, 1973 and 1981⁵⁴



These maps convey the consolidation of higher income property as contact with lower-income areas increased. Whereas a pattern of separate neighborhoods existed in the former map, the latter demonstrates a clear preference toward combining affluent areas into a larger homogeneous sector.

⁵⁴ Map originally included in Alan Gilbert (ed.). *The Mega-City in Latin America*. Tokyo, United Nations. University Press. 1996.