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The ‘Right to the City’ and the New Urban Agenda Habitat III²

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Abstract

The right to the city is a solution that can be considered in terms of third-generation human rights. The right to the city also serves as a tool for the effective fulfilment and respect of human rights agreed at the international level as well as the Sustainable Development Goals expressed in the 2030 Agenda. This is undoubtedly a new paradigm for urban development, which provides an alternative framework for rethinking cities and urbanisation. It aims to address the main challenges in cities and human settlements. The purpose of the article is to present an understanding of the right to the city by the analysis of its structure and the answer to the question of whether it is in fact a third-generation human right.

Keywords: right to the city, New Urban Agenda, third-generation laws, urbanisation.

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Prawo do miasta i Nowa Agenda Miejska Habitat III³

Streszczenie

Prawo do miasta jest koncepcją, którą można rozpatrywać w kontekście praw człowieka trzeciej generacji. Prawo do miasta służy również jako narzędzie skutecznego wypełniania i poszanowania praw człowieka istniejących na poziomie międzynarodowym oraz realizacji Celów Zrównoważonego Rozwoju wyrażonych w Agendzie 2030. Jest to niewątpliwie nowy paradygmat rozwoju miast, który zapewnia alternatywne ramy dla ponownego przemyślenia pojęcia miasta i urbanizacji. Jego celem jest sprostanie głównym wyzwaniom, z jakimi stykają się miasta. Celem artykułu jest przedstawienie rozumienia prawa do miasta poprzez analizę jego struktury i odpowiedź na pytanie, czy w istocie jest to prawo trzeciej generacji.

Słowa kluczowe: prawo do miasta, Nowa Agenda Miejska Habitat III, prawo trzeciej generacji, urbanizacja.

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Introduction

The right to the city needs to be recognised as a new paradigm for urban development that provides an alternative framework for city rethinking and urbanisation. It aims to tackle major challenges in cities and human settlements, such as rapid urbanisation, poverty reduction, social exclusion and environmental risks, which require decisive action and new policy priorities from national, regional and local authorities.⁴ The right to the city gives a new framework in thinking about cities and their functions. The right to the city also serves as a tool for the effective implementation and observance of internationally respected human rights and the sustainable development goals expressed in the 2030 Agenda.⁵ It also serves as the basis of the New Urban Agenda,⁶ based on the understanding of the city as a place that strives to guarantee a dignified and full life for all residents. The importance of the issue of the right to a city is demonstrated by the scale of the city's population and its growth (by 2050, the population of cities is expected to double). This makes urbanisation one of the most transforming trends. As the creators of the 2030 Agenda indicate, it is cities that currently have the highest percentage of the population, economic activity, social and cultural interactions, as well as the effects of environmental and humanitarian processes. This means that cities face enormous challenges in terms of sustainable development in such areas as housing, infrastructure, basic services, food security, health care, education, decent work, security and natural resources.⁷

The aim of the article is to present the understanding of the right to the city, through, inter alia, the analysis of its structure. Elements of the right to the city, which were the subject of work on the New Urban Agenda, will be presented in order to make it possible to confront them with their final shape adopted in the Agenda. There will be also conducted an analysis of the report on the implementation of the New Urban Agenda in order to check whether the right to the city contained

⁴ The Right to the City and Cities for All, Habitat III Policy Papers, <https://uploads.habitat3.org/hb3/Habitat%20III%20Policy%20Paper%201.pdf> (access: 3.02.2021), p. 24.

⁵ General Assembly Resolution A/RES/70/1: Agenda for Sustainable Development 2030. Resolution adopted by the UN General Assembly, <https://www.un.org/pl/agenda-2030-rezolucja> (access: 12.02.2021).

⁶ New Urban Agenda, Quito Declaration on Sustainable Cities and Human Settlements for All, <http://habitat3.org/wp-content/uploads/NUA-English.pdf> (access: 5.02.2021).

⁷ Ibidem.

in it is actually implemented. The analysis will answer the question whether, on this basis, one can already speak of the right to the city as a third-generation law or whether it is still a general concept with a political dimension.

The Concept of the Right to the City

The right to the city is a concept that has a chance to become one of the human rights. Currently, it seems that one can distinguish its components, which – looking at its development and common knowledge, as well as the scope of its application – have a chance to create new human rights, become part of them.⁸ As for the right to the city, which consists of a number of rights, it seems that it can create or is already creating a third-generation law. It has a collective character and protects human communities, and its protective function makes sense because the primary aim is to protect a group of people, not an individual. It should also be noted that the laws that are considered its constituent parts belong to the laws of both the first and second generations. The exercise of the human rights of the first and second generations (freedom and equality) is related to the sufficient guarantee of the human rights of the third generation.

The rights of the third generation were distinguished in the 1970s. Karel Vašák⁹ defined them as collective rights that secure entire human communities, unlike the rights of the first and second generations, which are the rights to freedom and equality. Their ultimate goal is to protect groups of people, not individuals. These rights include the right to peace, a democratic state of law, self-determination of nations, security, a clean environment, development, humanitarian aid, and the common heritage of humanity. It should be emphasised that the implementation of human rights of the first and second generations is related to the sufficient guarantee of the rights of the third generation.

The concept of the right to the city is not new. It is the result of many years of experience and discussion concerning it.¹⁰ It has been defined in both international and regional human rights treaties, including – in the field of international agreements – the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966), the International Covenant on Civil and Political Rights (1966), the International Convention on the Elimination of All Forms of Racial Discrimination (1968), the Convention on the Elimination of All Forms

⁸ The Right to the City and Cities for All..., p. 36.

⁹ K. Vašák, *Le droit international des droits de l'homme*, RCADI 1974, 4.

¹⁰ The Right to the City and Cities for All..., p. 25.

of Discrimination Against Women (1979), the Convention on the Rights of the Child (1989), the International Convention for the Protection of the Rights of All Migrant Workers (1977), the Convention Relating to the Status of Refugees (1951), the Vienna Declaration and Programme of Action (1993) on the universality and indivisibility of human rights. The regional instruments include: the American Convention on Human Rights (1969), the European Convention on Human Rights (1950), the African Charter of Human and Peoples' Rights (1981).¹¹

The right to the city is also known to the literature. The authorship of the concept can be attributed to Henri Lefebvre. In *Droit à la ville*,¹² which was published in 1967, H. Lefebvre wrote that a historically formed city, separated from the economically and culturally dominant village for millennia, is no longer alive, remaining a dehumanised object of cultural consumption for tourists, an object of greedy aesthetic spectacle and sloppy picturesque.' Yet 'urbanity' is alive, but it requires the realisation of a new urban society composed of persons with equal opportunities for self-fulfilment. The city is a place of socially produced space – the right to the city appears as the 'transformed and renewed right to city life.'¹³

The basic document for considerations on the right to the city is the World Charter of the Right to the City.¹⁴ It was created during the World Social Forum (2001). It is an important result. At the same time, it inspired many other documents, policies and legislation around the world. The World Charter of Rights to the City defines the right to the city as the fair use of cities in accordance with the principles of sustainable development, democracy, equality and social justice. The right to the city is a collective right of city dwellers, especially for vulnerable and disadvantaged groups who obtain legitimacy to act and organise based on their purpose and habits in order to achieve in practice the right to free self-determination and a fair standard of living.¹⁵ In the Charter, one can find a statement, according to which: 'Everyone has the right to the city without discrimination [...]; the city is a culturally rich and diverse cultural space that belongs to all its inhabitants.'¹⁶

The right to the city is defined as the collective and dispersed right of all residents, due to present and future generations, just like the right to the environment

¹¹ Ibidem.

¹² H. Lefebvre, *Le droit à la ville*, Paris 1967.

¹³ Ibidem.

¹⁴ World Charter for the Right to the City, https://www.right2city.org/wp-content/uploads/2019/09/A1.2_World-Charter-for-the-Right-to-the-City.pdf (access: 13.02.2021).

¹⁵ Global platform for the right to the city, https://www.uclg-cisd.org/sites/default/files/03_flyer%20digital%20GPR2C.pdf (access: 7.02.2021).

¹⁶ World Charter for the Right to the City...

enshrined in international treaties.¹⁷ The right to the city is therefore the right of all present and future residents to live, use and create just, favourable social inclusion and sustainable cities, defined as the common good, necessary to ensure an adequate quality of life. The right to the city also means the responsibility of governments and people to assert, defend and promote that right.¹⁸

It is an umbrella term, encompassing political power relations, land use and disposition, and social justice in the context of globalised 'world cities' that are undergoing rapid transformation.

The right to the city is interdependent with all internationally recognised human rights, understood in an integral way, and it includes all civil, political, economic, social, cultural and environmental rights that are governed by international human rights treaties.¹⁹ The right to the city, which recognises the city as a common good, respecting and protecting human rights for all, is made up of recognised human rights which include: enjoyment of full citizenship by all inhabitants, the social dimension of urban land, property and assets, human settlements, transparent and accountable political participation and urban governance, inclusive economies with the right to work and livelihoods, responsible and sustainable management of the common good, sufficient, accessible and high-quality public spaces and community facilities, non-violent cities, especially for women, girls and disadvantaged groups, promoting culture as a lever for social cohesion, social capital, self-expression and identity, memory and heritage, and sustainable relations between cities and towns within national jurisdictions and between human settlements and their rural hinterlands.²⁰

This translates into more specific rights, such as the right to work under decent and favourable conditions, to form and associate in trade unions, the right to social security, access to healthcare services, access to drinking water, electricity, public transport and other social services, access to food, housing, clothing, education, culture. This also includes the right to information, living in peace, with access to justice, the right to association and protest. There is also respect for minorities as well as ethnic, racial, sexual and cultural pluralism with respect for immigrants and gender equality.²¹

¹⁷ As in the Rio Declaration – Rio Declaration on Environment and Development A/CONF.151/26 (Vol. I, Report of the United Nations Conference on Environment and Development), Rio de Janeiro 3–14.06.1992.

¹⁸ The Right to the City and Cities for All..., s. 26.

¹⁹ Global platform for the right to the city, https://www.uclg-cisd.org/sites/default/files/03_flyer%20digital%20GPR2C.pdf (access: 7.02.2021).

²⁰ The Right to the City and Cities for All..., p. 24.

²¹ Ibidem.

Attention should be paid to the coherence between this approach to the right to the city and other rights, such as rights related to gender equality,²² the diversity of forms of cultural expression²³ or world heritage²⁴ – in the latter case, particular attention is paid to the collective protection of cultural and natural heritage of outstanding universal value, recognised as world cultural and natural heritage,²⁵ and supported by instruments protecting the intangible cultural heritage.

The right to the city is therefore an individual and collective right for all residents. Respecting, protecting, promoting and exercising the right to the city are key to changing the current paradigm of urban development.

The right to the city results from the obligations of the Habitat II Agenda adopted in 1996.²⁶ It focused particularly on the links between urban and rural areas and the need to apply human rights standards in human settlements. It also follows global agreements,²⁷ national laws,²⁸ and city charts²⁹ around the world.³⁰

New Urban Agenda

The New Urban Agenda is a document aimed at implementing internationally accepted solutions in cities, particularly the Sustainable Development Goals of the 2030 Agenda and the need to take action to curb climate change by implementing

²² European Union, *The European Charter for Women in the City* (2000); and *Charter for Women's Right to the City*, Barcelona 2004.

²³ See the *Convention on the Protection and Promotion of the Diversity of Cultural Expressions* (2005).

²⁴ Under Article 11 of the *Convention Concerning the Protection of the World Cultural and Natural Heritage*, the following cities have been declared as such: Potosí, Bolivia (2014), Old City of Jerusalem and its Walls (1982), Ancient City of Damascus, Syrian Arab Republic (2013), Liverpool – Maritime Mercantile City, United Kingdom of Great Britain and Northern Ireland (2012), and Old City of Sana'a, Yemen (2015).

²⁵ Articles 2 and 11 of the *Convention for the Safeguarding of the Intangible Cultural Heritage* refer to the protection of spaces, including urban and rural areas.

²⁶ The second United Nations Conference on Human Settlements (Habitat II), Istanbul 3–14.06.1996, Report of the United Nations Conference on Human Settlements (Habitat II), <https://undocs.org/en/A/CONF.165/14>, (access: 13.02.2021); *The Habitat Agenda, 1996*, <http://unhabitat.org/wp-content/uploads/2014/07/The-Habitat-Agenda-Istanbul-Declaration-on-Human-Settlements-2006.pdf> (access: 13.02.2021).

²⁷ Global compacts include: *World Charter for the Right to the City* (2005); *Rio de Janeiro Manifesto on the Right to the City* (World Urban Forum, 2010); *Global Platform for the Right to the City Action Plan and Thematic Axes* (2014); *Gwangju Guiding Principles for a Human Right City* (2014).

²⁸ E.g.: *Brazil's City Statute* (2001) and *Ecuador's Constitution* (2008).

²⁹ City charters include: the *European Charter for the Safeguarding of Human Rights in the City* (Saint Denis 2000); the *Mexico City Charter for the Right to the City* (2010); the *Global Charter-Agenda for Human Rights in the City* (UCLG, 2011).

³⁰ *The Right to the City and Cities for All...*, p. 25.

the Paris Agreement.³¹ The way urban spaces are managed is significant, and it seems that it can even have a major impact on the implementation of international policy in these areas.

Before the Habitat III Urban Agenda was adopted, the Habitat III Policy Papers³² were developed. This document had a major impact on the shape of the Urban Agenda. It included a model of the right to the city, which was later adopted in the Habitat III Agenda with some modifications. Habitat II's commitments have become a key point of reference for the creators of the Habitat III Agenda. This, in turn, means accepting 'the right to the city in a human rights environment.' According to the Habitat III Policy Papers (which is a preparatory document for the adoption of Habitat III), it is required to set regional or country-specific targets and indicators on the scope of their implementation.³³

The right to the city is the central concept of the New Urban Agenda Habitat III. The efforts made in the previous Habitat II and Habitat I³⁴ Urban Agendas have not solved urban problems such as urban poverty and social exclusion. There is great potential in cities, not only because more than half of the world's population lives there. This potential can be exploited for the protection of human rights, and Habitat III can be used as a tool for this purpose. It allows human rights in cities to be strengthened and extended in this very perspective. By implementing the tasks provided for therein, it is possible to minimise injustice in the socio-spatial dimension, participation in political life and ensuring a dignified life for residents. At the same time, it should be borne in mind that such implementation requires the cooperation of all interested parties, including residents. This cooperation must take place at the national and local levels. In addition, the right to the city requires the empowerment of all citizens, especially women, marginalised groups and the urban poor.³⁵

There is a problem with the scope of understanding of the right to the city. In some languages it is easily translatable, including cities themselves, in others it is more difficult and applies to all human settlements, not just cities.³⁶ The right to the city as a distributed law may apply in any metropolis, city, village or town institutionally

³¹ The Paris Agreement to the United Nations Framework Convention on Climate Change, drawn up in New York on 9 May 1992, adopted in Paris on 12 December 2015 (OJ 2017, item 36).

³² The Right to the City and Cities for All..., p. 26.

³³ Ibidem.

³⁴ United Nations Conference on Human Settlements – Habitat I, Vancouver, Canada 31.05.–11.06.1976, A/CONF.10/15, <https://undocs.org/en/A/CONF.70/15> (access: 13.02.2021).

³⁵ The Right to the City and Cities for All..., p. 25.

³⁶ Right to the city in Habitat III Official Statements, https://www.right2city.org/wp-content/uploads/2019/09/A5.1_Right-to-the-City-in-Habitat-III-Official-Statements.pdf (access: 13.02.2021).

organised as a local administrative unit of a powiat, municipal or metropolitan nature. It includes urban space, as well as the rural or semi-rural surroundings that form part of its territory.³⁷

Speaking of legal protection under the right to the city, it can be said that the components of the right to the city already enjoy legal protection in many countries. Considered and protected in combination as collective rights and distributed rights are only in the conceptualisation phase. The shared responsibility of governments and citizens lies in basing claims on it, defending it and promoting this right.³⁸

Aspects of the right to the city already protected by law include, for instance, the protection of the environment of cities (parks, forests, rivers), the protection of cultural heritage (monuments, historic buildings), as well as public spaces. As a collective right, it refers to the diversity of all residents on the basis of their common interest. As a scattered law, the right to the city belongs to present and future generations; is indivisible and is not subject to exclusive use or misappropriation.³⁹

Structure of the Right to the City in the Habitat III Agenda

In the following section, there will be presented an analysis of the city rights structure, which was included in the Habitat III Policy Papers, in order to allow for seeing whether the adopted three-element city law structure was fully adopted in the Habitat III Agenda, and whether on this basis – when comparing the assumptions and the final document – one can say that there is already a right to the city as a third-generation right. The 2020 report on the implementation of the Habitat III Agenda will also be helpful in this.

When the Habitat III Agenda was being prepared, it was decided that the right to the city should consist of three pillars. These include: spatially fair distribution of resources, urban governance and social, economic and cultural diversity. In addition, the main thematic areas to be covered by the right to the city during its implementation have been identified. These include urban spatial strategies, city governance, urban economy, social aspects and the urban environment.⁴⁰

The first pillar covers issues relating to housing land, urban commons, issues relating to public space and biodiversity, access to essential services and infrastructure, and pollution control. It also addresses unplanned and informal housing,

³⁷ The Right to the City and Cities for All..., p. 26.

³⁸ Ibidem.

³⁹ Ibidem.

⁴⁰ Ibidem, p. 24.

resilience, climate change, natural disasters and risk management. The second pillar concerns issues related to inclusive governance, inclusive urban planning, citizenship, public participation in governance, transparency and democratisation. The third pillar of the right to the city deals with such issues as, for instance, migration and refugees, identity, culture, diversity and heritage. There are also aspects of urban security, poverty, social inclusion and solidarity.⁴¹

The first component to build the right to the city includes fair distribution of land, which consists in creating housing conditions of adequate quality, investment in basic infrastructure and services, adequate and affordable transport options, decent work opportunities, the development of circular economy initiatives, education, health care, investments in the protection of ecosystems and biodiversity, and protection against climate change.

This right applies to all residents. However, it requires that specific measures for its proper implementation be targeted at marginalised groups (e.g. young people, migrants and refugees, informal workers and people with disabilities).

The second pillar, urban governance, concerns not only the exercise of power, but, above all, social participation (the participation of citizens in the exercise of power). The right to the city is only exercised if structures, processes and policies enable all residents as social and political actors to enjoy the full content and meaning of citizenship.⁴² This means that concrete actions should be directed at women, marginalised groups in order to ensure that they have effective access to the exercise of their civil rights to the extent indicated. The creators of the Habitat III Policy Paper pointed out that the actions taken within this pillar, consisting of the structure of the right to the city, 'lessens the relatively high control by capital and State elites over decisions regarding the organization and management of the city and its spaces, and reconfigures urban space, land, and property in a manner that maximizes use value for all inhabitants. It requires transparency, accountability, and the democratization of data for decision-making and the allocation of opportunities and resources.'⁴³

The third pillar that builds the right to the city is social, economic and cultural diversity. The right to the city fully embraces diversity and differences in gender, identity, ethnicity, religion, heritage, collective memory, cultural and economic practice and socio-cultural expression.⁴⁴ The realisation of the right to the city in

⁴¹ Ibidem.

⁴² Ibidem, p. 27.

⁴³ Ibidem.

⁴⁴ Ibidem, p. 26.

this area requires cities to create opportunities for encounters, interaction and active links in order to develop a new form of urban life.

The Habitat III Policy Paper contains a new understanding of the city as a common good with following elements: a non-discriminatory city, a city with inclusive citizenship, a city with increased political participation, a city that performs its social functions, a city with high-quality public space, a city of gender equality, a city with cultural diversity, an inclusive city. These are supported by three pillars: spatially only the distribution of resources, political agency and social, economic and cultural diversity.

The achievements of its predecessor, Habitat II, and the above-mentioned project undoubtedly had the shape of the right to the city, which was included in the Habitat III Agenda.

The right to the city, according to Habitat II, consisted of the following elements: democratic management of cities, sufficient implementation of the human right to adequate housing, a holistic approach to the relationship between urban and rural areas. For Habitat III, urban development models were characterised by problems such as social exclusion, environmental degradation, undemocratic decision-making.

In the Habitat III Agenda, one can find the right to the city mentioned earlier – present in the literature and repeated in the Policy Papers. There is a wording in the Agenda in which its authors note the efforts of some national governments and local authorities to fulfil the vision referred to in the legislation of some countries as the 'right to the city', which consists of the aforementioned elements – fair use and use of cities and settlements of people, promoting social inclusion and ensuring that all citizens, present and future generations, without any discrimination, can live and create fair, safe, healthy, accessible, affordable, vibrant and sustainable cities and human settlements, ensuring well-being and a high quality of life for all.⁴⁵ Thus, it can be concluded that the Habitat III Agenda undoubtedly includes and defines the right to the city, supporting the efforts of governments and local authorities in its implementation.

Another aspect that should be considered is the extent to which the pillars of the right to the city, which were developed in the Habitat III Policy Papers, translate into the final document of Habitat III, whether all the elements that, according to its authors, were accepted and were adopted in the same dimensions in the final document.

With regard to the first pillar – spatially just distribution of resources – one finds obligations of a lighter nature than those contained in the Policy Papers. It is about the gradual, full exercise of the right to adequate housing conditions,

⁴⁵ New Urban Agenda, the Quito Declaration on Sustainable Cities and Human Settlements for All..., p. 5.

which are an element of the right to an adequate standard of living. The scope of implementation of this right corresponds to that adopted in the Policy Papers (universal access to safe and affordable drinking water and sanitation, as well as equal access to all public goods and high-quality services in areas such as food safety and nutrition, health, education, infrastructure, mobility and transport, energy, air quality and livelihoods).⁴⁶ On the other hand, the manner in which this is to be achieved is again formulated without much categorism, with a purely political character. The authors of Habitat II undertake to 'promote' national, regional and local housing policies that support the gradual realisation of the right to a suitable place of residence for all as a component of the right to an adequate standard of living, using land in an efficient, equitable and sustainable way. In developing this, the Agenda includes another 'soft' wording to promote the development of adequate and enforceable legislation in the housing sector (including building codes), standards, building permits, land use rules and regulations, and planning regulations, and to combat speculation, displacement, homelessness and arbitrary forced evictions and their prevention. It is also about 'promoting' the implementation of sustainable urban development programmes, the emergence of isolated peripheral housing estates, detached from urban systems while providing alternative solutions to meet the housing needs of low-income groups.

The scope of this pillar, on the other hand, seems to be wider than in the preparatory documents, as guaranteeing an adequate standard of living is also to include combating all forms of discrimination and violence, and preventing arbitrarily forced evictions, and focusing on the needs of the homeless, vulnerable people and low-income groups and people with disabilities.⁴⁷ At this point, the Agenda also provides for the implementation of the assumptions of the second pillar, which concerns, *inter alia*, social participation. It specifies that the above-mentioned obligation is to be implemented with the involvement of the community and interested parties in the planning and implementation of these strategies, including supporting the social production of the environment in accordance with national regulations and standards.

Here one also finds a concrete commitment to provide access to housing for marginalised communities, homeless and vulnerable people, by stimulating the supply of many suitable housing options that are safe and affordable. Improving the living conditions of homeless people is intended to enable them to participate in society on a full-time basis, as well as to contribute to the prevention and eradication of homelessness. It also committed itself to combating and eliminating its

⁴⁶ *Ibidem*.

⁴⁷ *Ibidem*, p. 27.

criminalisation. At the same time, the Agenda refers to the need for inclusive measures in the areas of urban security, crime prevention, terrorism. These measures will allow local communities and non-governmental actors to be involved in the development of urban strategies, including slums and informal settlements, in the development of policies on public security and crime prevention, including by preventing and countering the stigmatisation of certain groups as posing greater security risks in themselves.⁴⁸

It also points to the situation of disadvantaged people and the need for measures to facilitate these people's access to the physical environment of cities – public spaces, transport, housing, educational and health facilities and other facilities and services open to or provided to society – as they do for other residents.

Speaking of climate change as a constituent part of the right to the city, Habitat III extends this issue to ensure environmental sustainability by promoting clean energy and sustainable use of land and resources in urban development, by protecting ecosystems and biodiversity. This also includes promoting sustainable consumption and production patterns, by reducing the risk of disasters and reducing and adapting to climate change.⁴⁹

As for the second pillar building the right to the city, it was recognised that the way cities and human settlements are manageable should be based on sustainability patterns, and thus sustainable urban development is to have a key impact on achieving sustainable development in a broader, national and global dimension.

The dimension of social participation, in the exercise of power at the local level, which is, in a sense, the axis of the second pillar, is included in the Agenda in a not very sharp way. Soft words such as 'where applicable', 'achieve', 'promote', 'support' are used. Less frequently in this dimension, compared to what has been discussed earlier, one will find a concrete commitment here. The document therefore refers to the effective implementation of the Urban Agenda on a feasible and participatory and inclusive urban policy, 'as appropriate, by national, subnational and local institutional and regulatory frameworks, ensuring that they are adequately linked to transparent and accountable finance mechanisms.'⁵⁰ A commitment has therefore been made to promote metropolitan governance, which is socially inclusive and includes a legal framework and sound financing mechanisms.

It was also promised to support (in line with national legislation of states) in strengthening the capacity of local authorities to implement effective local and

⁴⁸ Ibidem, p. 33.

⁴⁹ Ibidem, p. 7.

⁵⁰ Ibidem, p. 23.

metropolitan multi-level governance beyond administrative boundaries, ensuring the participation of regional and local authorities in decision-making.

It also committed itself to promoting a participatory approach, which takes age and gender into account 'at all stages of urban and territorial policy and planning processes, from conceptualization to design, budgeting, implementation, evaluation and review, rooted in new forms of direct partnership between Governments at all levels and civil society, including through broad-based and well-resourced permanent mechanisms and platforms for cooperation and consultation open to all, using information and communications technologies and accessible data solutions.'⁵¹

With regard to the third pillar, it should be stated that its scope is extensive, especially with regard to women's rights. This is about gender equality, enabling all women and girls to ensure the effective and full participation of equal rights in all areas and leadership at all levels of decision-making, by ensuring decent work and equal pay for equal work, or work of equal value, for all women, and by preventing and eliminating all forms of discrimination, violence and harassment against women and girls in private and public spaces.⁵²

The same pillar also categorically commits itself to ensuring full respect for the human rights of refugees, internally repossessed persons and migrants, regardless of their immigration status, and to support host cities 'in the spirit of international cooperation, taking into account national circumstances and recognizing that, although the movement of large populations into towns and cities poses a variety of challenges, it can also bring significant social, economic and cultural contributions to urban life.'⁵³ The Agenda also includes a commitment to ensure safe, orderly and legal migration through planned and well-managed migration strategies and to support local authorities in creating a framework for migrants to make a positive contribution to cities and strengthen links between urban and rural areas. It is therefore possible to see a significant extension of the obligations regarding migrants and ensuring their safe existence at the local level.

In conclusion, it can be noted that not all of the Agenda's intentions contained in the Policy Papers are fully reflected in the New Urban Agenda⁵⁴. The wording contained in it is frequently devoid of categorisation, focusing on promoting, encouraging, supporting. The scope of the elements building the right to the city, which was adopted in the final document, also appears to be narrower than the Policy Papers.

⁵¹ Ibidem, p. 24.

⁵² Ibidem, p. 5.

⁵³ Ibidem, p. 11.

⁵⁴ Ibidem.

World Cities Report

The scope of the Habitat III Agenda has been the subject of the October 2020 World Cities report *The Value of Sustainable Urbanization*.⁵⁵

Its analysis will determine how the issue of the right to the city has been taken up and implemented since the adoption of the Habitat III Agenda in 2016.

The report indicates that there is a significant movement for the implementation of the New Urban Agenda, together with the Sustainable Development Goals (SDGs) contained in the 2030 Agenda. Government leaders have taken noticeable steps to implement them. The New Urban Agenda and the UN – Habitat have provided the global urban community with the normative tools and global platform needed both to take decisive action and to contribute to the international movement for better cities.⁵⁶

The report also includes the concept of 'cities for all', according to which all people in both urban and rural environments should have equal rights, opportunities and fundamental freedoms in order to benefit from the value of sustainable urbanisation. This approach is also contained in the commitment of the New Urban Agenda, which is to leave no one behind by putting an end to poverty in all its forms and dimensions.⁵⁷

The problem which, according to the authors of the report, is still little noticed in urban policy, and which constitutes an element that builds the concept of the right to the city, is women's rights in the broadly understood urban space. The authors of the report explicitly state that the right to the cities is not equally applied to women, 'it is far from being realized, especially among women with low incomes.'⁵⁸ The number of women in cities and the number of households run by them and their share in the labour market impose new requirements regarding the location of houses in relation to the place of employment, access to municipal services, and the arrangement of transport systems.⁵⁹ Therefore, there is a lack of coherence between the Agenda and its commitments in this area, and the implemen-

⁵⁵ World Cities Report 2020, *The Value of Sustainable Urbanization*, October 2020, https://unhabitat.org/sites/default/files/2020/10/wcr_2020_report.pdf (access: 5.02.2021).

⁵⁶ *Ibidem*, p. 299.

⁵⁷ *Habitat III...*, p. 24.

⁵⁸ UN System-Wide Strategy on Sustainable Urban Development, Chief Executive Board for Coordination, CEB/2019/4/Add., <https://unhabitat.org/wp-content/uploads/2019/05/UN-SystemWide-Strategy-on-Sustainable-UrbanDevelopment-1.pdf> (access: 21.09.2020).

⁵⁹ *The Right to the City and Cities for All...*, p. 39.

tation so far. As mentioned above, women's rights are broadly described in the Agenda as an important element of the right to the city.

An example of the implementation of the 'right to a city' in its second pillar, in terms of strong social inclusion and participatory programme, is the action taken in Ireland. In Dublin, non-EU residents were granted the right to vote in local elections, regardless of their legal status.⁶⁰ This form of political inclusion includes educational and awareness-raising campaigns for voters and marks a departure from the long-standing link between civil rights and nationality.⁶¹

The report provides a general recommendation to further promote participatory processes. It refers to the need for creating a new culture of participation by recognising the rights of every citizen and, in particular, the right to a city. The new culture of participation entails a clear recognition of civil rights, in particular, the right to a city. Participatory processes, as recommended by the authors of the report, should involve civil society in all its forms, e.g. NGOs, social partners, academia. These processes should be based on transparent and common principles and give citizens real decision-making powers and should be implemented with regularity and continuity. Formal participation procedures should be complemented by partnerships going beyond formal consultation, recognising civil society groups as active partners in the new management of urban areas. This, in turn, requires public institutions to strengthen the position and autonomy of social and local movements.⁶²

The report also makes clear recommendations on what needs to be done to ensure the 'right to a city' – as an instrument to promote equal rights, opportunities and fundamental freedoms.

It points to the proper management of cities – good governance, regulation and operation of institutions, to support well-planned and managed urbanisation, through democratic and participatory processes. It also points to broader processes to tackle inequalities in urban centres, including to support inclusivity. This, in turn, can be achieved through a fair and properly implemented social policy that promotes social inclusion. The recommendations also mention housing rights by supporting access to adequate and affordable housing. The report points to the need for supporting sub-national and local authorities in their efforts to implement transparent and responsible expenditure control instruments in order to assess the necessity and impact of local investments and projects, based on legislative

⁶⁰ Dublin Office for Integration, *Did You Know You Can Vote? Cities and Democracy at Work*, Cities of Migration Conference, Ryerson University, Toronto 2009.

⁶¹ World Cities Report..., p. 148.

⁶² *Ibidem*, p. 244.

control and public participation. This, in turn, has to do with prioritising the needs of vulnerable people – marginalised groups – so that, in line with the theme of Habitat III, it means to 'not leave anyone behind', with a particular focus on cultural diversity.

Conclusions

The aim of the article was to estimate whether one can talk about the right to the city as the third-generation law on the basis of Habitat III – The New Urban Agenda?

The analysis conducted has shown that the 'right to the city' has the wide political, doctrinal and historical backgrounds. It is also well known by international treaties (especially the parts which create this concept) – both international and regional treaties and documents regarding human rights – especially the World Charter for the Right to the City. This means that the concept is commonly known and widely accepted. All of the United Nations conferences under the auspices of the UN Habitat refer to the right to the cities. That also means general acceptance for the concept. However, that still does not give one any clear answer whether one can talk about the well-shaped third-generation law.

As far as I am concerned, one could have made such an assumption if the dimension of the right to the city included in the Habitat III Policy Papers had been repeated in the New Urban Agenda. In my opinion, there is a possibility of talking about the new human right if this three-pillar construction of the right to the city were adopted as a whole by the Habitat III Agenda (this means: spatially fair distribution of resources, urban governance and social, economic and cultural diversity with the elements included in them).

As one could have noticed, in many cases, the Agenda is softer, less categorical in its provisions than the Policy Papers. It means that there was no consensus between the signatories of this document and that the actions should be made on the level which was indicated in the Policy Papers. At the same time, that means, in my opinion, that there is no general agreement to recognise the existence of the right to the city as a new category of human rights.

On the other hand, one cannot disregard the fact that the right to the city, which consists of a number of rights, can create – or is on track to create – the new third-generation law. It has a collective character and can give protection (as an umbrella term) for the human communities. Awareness of its presence as well as the building blocks of this law developed in the collective consciousness both indicate that it is possible that one will soon be able to invoke this right. This may be proved by the fact of its presence in the report on the implementation of the

Habitat III Agenda. The assessment of its implementation was also made from the point of view of the necessity and exercise of the right to the city.

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