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Rights and the City: An Exploration of the Interaction Between Socio-economic Rights and the City

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Abstract In a rapidly urbanising society and against a background of rural under-development, cities are increasingly the locations for access to basic socio-economic amenities and essential services. Access to the city and everything that it offers therefore impacts profoundly on the manner and extent to which poor and marginalised persons access the objects of their constitutionally ensconced socio-economic rights. Conversely, the content of the 'right to the city' is impacted by legal understandings of the ambit, scope and enforceability of socio-economic rights. Either way, the South African Constitution's entrenchment of rights to access water, housing, health care services and education, alongside its guarantee of a substantive right to equality, mean that urban design, policy making and regeneration processes have become increasingly legalized and will increasingly be tested for constitutional compliance, especially in instances where they have the effect of excluding poor and marginalised persons from the city. This article begins to unpack the interrelationship between constitutional rights and the right to the city, focusing specifically on the impact of rights-based litigation and judgements on urban policy making, design and regeneration in South Africa.

Keywords Right to the city · Socio-economic rights · South African constitution · Courts · Impact of law on urban planning

Introduction

> 'Yet the urban landscape is always a contested terrain, where the propertied, privileged and powerful seek to establish one set of rules governing the use of urban space that is compatible with their city vision, and, conversely, the

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propertyless, underprivileged, and powerless make use of whatever means are at their disposal to challenge the status quo' (Murray 2008: 14).

Urban fragmentation, separation and exclusion were central features of apartheid South Africa. The draconian legislative framework providing for apartheid facilitated and propped up an urban landscape which closely tied race and class 'difference' to acute social and economic disadvantage. Just as these disadvantages have lingered long after the death of formal, legislated apartheid, they have continued to be mirrored by spatial chasms within and across the post-apartheid cityscape (see Democratic Alliance v. Masondo 2003: paragraphs 56–57).

Remaking urban space in post-apartheid South Africa has accordingly proved to be a fraught process, particularly as the country's growth and burgeoning consumerism has played itself out most prominently within the country's urban centers. Post-democracy, racialist capital flight from urban centers, as well as perceptions of crime, led simultaneously to the ghettoizing of once-opulent city cores and the mushrooming of exclusionary walled enclaves in outer suburbs (see Dirsuweit 2002; Lemanski 2006), while communities remained shut off from one another and society's have-nots continued to be relegated to marginalised spaces, disconnected from a common and united urban fabric. Subsequent urban revitalization efforts by the public and private sectors, which have seen glossy corporate headquarters, trendy coffee shops and closely monitored, pristinely maintained pavements emerge amidst persisting squalor and decay, have simultaneously provided hopeful glimpses of a transformed and integrated urban future, and starkly highlighted the violence perpetrated by some proponents of this vision against vulnerable and marginalised urban inhabitants.

In Johannesburg, South Africa's economic hub, for instance, scenes of 'red ants' mercilessly dumping the possessions of seemingly unlawful occupiers of Hillbrow's flats on pavements are reminiscent of scenes in Sophiatown in the early 1960s. The semantics of the term 'red ants', and their alarmist red colour, suggest a vision on the part of the City of Johannesburg to clean up and to marginalise undesirables, in pursuit of creating a 'world-class African city'—one that, although shiny on the outside, nevertheless hides away those harsh realities that make the city a quintessentially poor one. In mirroring the trajectory of the legislated system of Apartheid and in sharing its roots in the exclusivity of urban space and notions of (non)belonging, this implementation of the vision of future South African city life is severely problematic. Democracy begins to lose its currency for many living in South Africa's urban centers, because their living environments—their basis for maintaining and securing urban citizenship—remain threatened, devalued and dictated within the confines set by an empowered minority (see also Dirsuweit 2006: 297).

It is then unsurprising that the disempowered have sought to claim a voice through the Constitution of the Republic of South Africa (1996) and judicial system. The Bill of Rights contained in the Constitution has provided an outlet for the marginalised to assert their citizenship within the urban fabric of South Africa. The result of their resort to law has not only brought to the fore the schisms between the urban poor and the empowered, but has also led to the development of a legal framework that guides public and private efforts to bridge these gulfs. For various

reasons, however, this framework has evolved unwittingly and haphazardly, and displays little awareness of its impact on the urban fabric.

This article aims to provide an introductory, and somewhat speculative, analysis of the manner in which the South African judicial system has engaged with claims to urban life and space, and of how litigants have employed rights in the Bill of Rights to secure this. The article grounds itself in the burgeoning literature on the 'right to the city' which, while mostly being foreign to lawyers and courts, resonates in many ways with the spirit, purport and objects of the Constitution and, as such, provides what we regard to be an essential foundation for future legal engagement with cities. After attempting to situate the right to the city within South African constitutional discourse and the Bill of Rights, the article engages with a cross-sample of legal decisions that have upheld or engaged with some of the many facets of the right. From this, it attempts to draw lessons for lawyers and others committed to establishing inclusive and diverse cities through the use of law. Ultimately, the article postulates the necessity for engagement between the legal fraternity and disciplines such as urban geography, architecture, urban planning and other social sciences, and seeks to sow the seeds for a rights-based approach to urban planning and architecture.

The Right to the City

The father of the 'right-to-the-city' movement, Henri Lefebvre, conceived of the right as being 'like a cry and a demand' (Lefebvre 1996: 158) by the inhabitants of the city, for sharing in the fullness of urban life. The right to the city therefore requires meaningful access to the city and that which it offers. It consists of claims of habitation (to inhabit the city, to use its spaces and share in its spoils), appropriation (to be present in, to experience and make use of the fullness of the city) and participation (to imagine the city and to constitute its form, meaning and operation, through the practices of daily life) (Lefebvre 1996: 173–174; also Layard 2010: 432–433; Mitchell 2003: 18–20; Purcell 2002: 102–103).

The right to the city is thus simultaneously grounded in the reality of present, everyday life in the city and in a continuously shifting and contested vision of a future city that is impossible to pin down but is actively imagined, struggled and strived for, by inhabitants individually as well as by collectives. Hence, David Harvey asserts:

> 'the right to the city is far more than the individual liberty to access urban resources: it is a right to change ourselves by changing the city. It is, moreover, a common rather than an individual right since this transformation inevitably depends upon the exercise of a collective power to reshape the processes of urbanization' (Harvey 2008: 23. See also Simone 2005: 323; Marcuse 2009: 193).

Notably, the right to the city extends to all who inhabit the city and not only to those whose presence there is legally recognised or tolerated, or only to those who legally qualify for rights protection because of, for instance, their political citizenship. Moreover, while the working class is the right to the city's main agent, the right extends

to all who seek inclusion, habitation, appropriation or participation and, as such, is claimed also by non-working-class malcontents and marginalised groups or, indeed, by anyone who participates in the struggle over the city's form and meaning (Lefebvre 1996: 158–159; Marcuse 2009: 190–191; Purcell 2002: 102).

The right to the city is infringed, in the main, by laws, practices and social structures that exclude people from any of its constituent elements (Pindell 2006: 442). As such, its aims resonate with substantive conceptions of the right to equality, which aim to unmask and eradicate exclusionary social structures and practices as a subset of (impermissible) unfair discrimination (Albertyn 2007; Albertyn and Goldblatt 1998; Liebenberg and Goldblatt 2007).

As to the object of the right, Lefebvre conceived of the city as an oeuvre, a work in progress, in which all inhabitants of the city participate (Lefebvre 1996: 101–103; Mitchell 2003: 17–18). The oeuvre is constituted through interaction and struggle between the visions and efforts of multiple authors who are fundamentally different and whose visions of the city are, therefore, poles apart:

> 'in the city, different people with different projects must necessarily struggle with one another over the shape of the city, the terms of access to the public realm, and even the rights of citizenship. Out of this struggle the city as a work—as an ouvre [sic], as a collective if not singular project - emerges, and new modes of living, new modes of inhabiting, are invented' (Mitchell 2003: 18).

Claims for habitation, appropriation and participation are thus directed at the city as oeuvre and are necessarily embedded in the struggle among the different inhabitants of the city over its form and meaning. Within this struggle, the right to the city implies a claim to individualization through socialization (Lefebvre 1996: 173), which implies that individual claims to both the concrete and more aspirational aspects of the right to the city are continuously reshaped through interaction with competing claims of other inhabitants.

As a right to the oeuvre of the city, the right to the city is thus at once constitutive of and dependent upon the notion of the city as melting pot, as site for encountering difference—'the city is the place where difference lives' (Mitchell 2003: 18). As such, the oeuvre of the city corresponds to the models of urban difference held forth by scholars such as Jane Jacobs, Iris Marion Young, Jerry Frug and others. Most powerfully, it resonates with Young's notion of 'city life', developed as an alternative to the ideal of 'community' in attempting to formulate a 'vision of social relations affirming group difference' (Young 1990: 227) and resting on the notion of the city as a place where vastly different, mostly unassimilated, strangers share space by necessity, and intermingle without necessarily interacting as a community. Exposure to, and tolerance of, difference is an essential component of this intermingling (Young 1990: 227; 237). The virtues of city life, thus understood, are that difference is tolerated and accommodated at the level of everyday interaction, without necessarily being assimilated or even approved of (what Young calls 'social differentiation without exclusion'), that urban space becomes interesting and fulfilling because it supports a diversity of activities, that people are enriched, attracted and enticed by exposure to difference and that they foster a sense of public togetherness without necessarily identifying with one another on a personal level (Young 1990: 238–241. See also Frug 1996: 1051, 1077 and 1079; Jacobs 1961 (1993): 72–73 and 95; Pindell 2006: 438).

In South Africa, we would argue, this vision of city life is to be aligned with the broader vision of common citizenship within a transformed society held forth, inter alia, by the 1996 Constitution (see Enslin 2003: 75–76; Hammett 2008: 653 and 655; Le Roux 2006: 33–34). The Constitution's vision of a South Africa which 'belongs to all who live in it, united in our diversity', which strives 'to improve the quality of life of all citizens and free the potential of each person' and which is founded on values of 'human dignity, the achievement of equality and the advancement of human rights and freedoms', 'non-racialism and non-sexism' and 'accountability, responsiveness and openness' (Constitution of the Republic of South Africa 1996: preamble and founding values (s 1)) squares perfectly, in our view, with the right to the city's foundational emphases on ideals of inclusion, participation, tolerance, respect for difference and belonging. By collectively remaking and reimagining South African cities in the pursuit of post-Apartheid urban citizenship, we are therefore participating in the constitutionally envisaged transformation project (on transformative constitutionalism and its tenets, see Albertyn and Goldblatt 1998; Klare 1998; Pieterse 2005).

Clearly, the right to the city is not easily reducible to the legal notion of a right, being something fairly stable, clear and precise, that can be consistently and predictably invoked, interpreted and enforced (Purcell 2002: 103; Simone 2005: 323). The legal dimensions of the right to the city would also make little sense when viewed separately from the lived practices through which it is constituted (Staeheli et al. 2002: 202). Perhaps because of this, the legal dimensions of the concept have long been neglected (Fernandes 2007: 202 and 208). In particular, with the singular exception of Brazil, no state has yet explicitly incorporated the right to the city within its domestic regime of legal rights.

However, if the right to the city is understood as comprising an interrelated and interdependent package of rights rather than a singular entitlement, it becomes easier to align with the logic of legal human rights frameworks. The recently proclaimed World Charter on the Right to the City (2005) represents an important step towards elaborating the content of this package, although it arguably remains insufficiently precise and specific to function as blueprint for the legal articulation of the right.

According to the World Charter, the right to the city is defined as

> 'the equitable usufruct of cities within the principles of sustainability, democracy, equity and social justice. It is the collective right of the inhabitants of cities, in particular of the vulnerable and marginalised groups, that confers upon them legitimacy of action and organisation, based on their uses and customs, with the objective to achieve full exercise of the right to free self-determination and an adequate standard of living'

and transcends the conventional legal division of rights into categories comprising civil and political rights and socio-economic rights (World Charter on the Right to the City 2005: art 1.2). Constituent elements of the right, as enumerated in the World Charter, include the rights to work; public health, a healthy environment and access to health services; water, energy, sanitation and telecommunications; public transportation and urban mobility; housing and adequate shelter; non-discrimination and respect for plurality; open, transparent and participative governance; political participation; development; preservation of

heritage; physical safety and personal security; freedom of movement; and freedom of organisation and association. Throughout, the World Charter's emphasis is on inclusion and equal enjoyment of these rights (on the content of the package of rights constituting the right to the city see also Marcuse 2009: 191–192).

Most of these constituent rights are well known in the international human rights arena, although some of them are better defined and more widely accepted at domestic level than others and many have developed their legal content in contexts other than that provided by the right to the city. But their existence in international human rights law, and their increased recognition and enforcement in domestic legal systems around the world, mean that it is possible to construct a legal concept of the right to the city within particular societies. Perhaps more importantly, it also means that the possibilities inherent to the right to the city are shaped, and potentially restrained, by legal understandings of its constituent rights.

In the remainder of this section, we identify the rights in the South African Constitution that are relevant to the legal construction of a right to the city and a common urban citizenship in this country. By recognising social and economic rights alongside more traditional civil and political rights without, in principle, distinguishing their justiciability, the South African Constitution may be particularly enabling of such a construction. Moreover, the South African Constitutional Court, which is the primary institution tasked with interpreting the Constitution, has affirmed the interdependence and indivisibility of human rights and has adopted an approach to constitutional interpretation that allows for the overlap and interaction between different rights to be acknowledged and given effect to in particular contexts (see, for example, its remarks to this effect in Government of the RSA v. Grootboom 2001: paragraphs 23–24 and 83).

The Bill of Rights is contained in chapter 2 of the 1996 Constitution. Where a court finds that law, State conduct or private actions have limited a right in the Bill of Rights, it must declare this to be unconstitutional and invalid, unless it can be shown that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, and that the importance of its purpose outweighs the rights-interest on which it impacts adversely. Courts may further award appropriate, just and equitable remedies to successful litigants, to correct or compensate for the infringement of rights in the Bill of Rights (RSA Constitution 1996: ss 7, 8, 36, 38 and 172).

As alluded to above, the right in the Bill of Rights that perhaps resonates most closely with the goals of the right to the city is that to equality in section 9, which guarantees equal protection and benefit of the law, requires full and equal enjoyment of all other rights and freedoms and prohibits unfair discrimination (and hence, exclusion) on grounds such as race, gender, sexual orientation, religion and age. The right is supplemented by legislation (the Promotion of Equality and Prevention of Unfair Discrimination Act 2000) which further requires courts to be sensitive to discrimination and exclusion based on socio-economic status. Equality as a value further underlies the interpretation and enforcement of all other rights in the Bill of Rights.

The rights to life and dignity in sections 10 and 11 of the Constitution may also be expected to be central to a legal conception of the right to the city. This is because both of these rights are capable of broad and substantive interpretations that extend their ambit to issues of livelihood and living conditions, meaning that they may be

applicable to matters pertaining to the quality of city life. In India, for example, the right to life has often been invoked to safeguard the livelihoods of poor and marginalised urban inhabitants such as street traders (see, for instance, the well-known decision of the Indian Supreme Court in Olga Tellis v. Bombay Municipal Corporation (1986)).

Fundamental freedoms listed in the Bill of Rights that contribute to the actualization of the right to the city include the rights to be free from public and private violence and to security of the person (s 12), freedom of expression (s 16), freedom of assembly and demonstration (s 17), freedom of association (s 18), freedom of movement (s 21) and freedom of trade and occupation (s 22). Together, these rights safeguard both certain of the preconditions for the right to the city (access to city space and safety) and certain of the concrete elements of appropriation and participation, such as using city space to secure a livelihood and participating in the public life of the city (see also Parnell and Pieterse 2010: 148).

The guarantee of 'an environment that is not harmful to health or well-being' and to the preservation of the environment for future generations, in section 24 of the Constitution, speaks both to the conditions of city life and to issues of heritage that are integral to the right to the city. More importantly, the provision further introduces the notion of sustainable development into constitutional discourse, by determining that the environment must be protected through measures that 'secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development'. As such, it provides the backdrop for struggles over the nature and form of future urban development.

Affirming that the notion of citizenship ascribed to by the Constitution extends beyond traditional, 'liberal' conceptions thereof, a range of socio-economic rights are contained in sections 26 and 27 of the Constitution. In terms of both provisions, the State is obliged to work towards the progressive realisation of the rights awarded, within its available resources, by way of adopting reasonable legislative and other measures. Of the rights awarded, the most important in relation to the right to the city is undoubtedly the right of access to adequate housing in section 26(1) of the Constitution, read with the guarantee that no one may be evicted from their home or have their home demolished without due legal process, in terms of section 26(3). Together, these rights provide a powerful legal basis for claims of habitation (see also Pindell 2006: 439), as well as a powerful contra weight to the hegemony of private property rights that underlies much of capitalist urban development discourse.

Other socio-economic rights that have a bearing on the right to the city are those to have access to health care services, food, water and social security in section 27 of the Constitution, as well as the right to education in section 29. Unfortunately, the Constitution is silent on the provision of other services inherent to the right to the city, such as sanitation, energy, transport and telecommunications. Yet, public obligations pertaining to municipal service provision (which would include these services) are contained in section 152 of the Constitution, which provides that the objects of local government include sustainable service provision to communities as well as the promotion of social and economic development. This is echoed by section 195 of the Constitution, which determines, among other things, that public administration must be development-orientated, must promote efficient and sustainable use of resources and that services must be provided 'impartially, fairly,

equitably and without bias'. Crucially, both these provisions also require community involvement and participation in local governance and policy making.

It would therefore seem that the South African Constitution recognises and protects many of the constituent elements of the right to the city and that it is therefore possible to found the right within a purposive and holistic reading of the Constitution. The following section of the article considers the manner in which certain South African court decisions, which have considered different rights in the Bill of Rights in the context of urban development, service delivery, regeneration and related policies, have (unwittingly) shaped different aspects of the right to the city. The aim is not to provide a complete overview of all decisions that have contributed to our legal understanding of the right, nor to provide a detailed account of their bureaucratic and policy impact. Rather, we wish to illustrate that the judicial vindication of rights, especially socio-economic rights, holds significant potential for the vindication of the right, especially for its poor or socially marginalised beneficiaries.

The Right to the City in Court

Claims of Habitation

As the legal pillars of apartheid crumbled, South African inner cities and their immediate surrounds experienced an influx of poor residents from rural areas and outlying townships, who had previously been legally prohibited from inhabiting inner-city space. Many of these persons inhabited, in one way or another, vacant land or abandoned buildings without explicit permission of the owners thereof, hence asserting their right to the city extra-legally (on such extra-legal assertion, see Murray 2008: 37 and 163–176; Pindell 2006: 448; Veary 2010: 40–43; Weinstein and Ren 2009: 410). As elsewhere, the struggle for control over urban space between propertied and non-propertied classes has meant that these extra-legal claims of habitation have been pitted against legal claims of ownership and that the tensions between these have had to be mediated within complex policy and legal frameworks (such as, in South Africa, that of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 1998).

Pursuant to the constitutional guarantee of a right to have access to adequate housing and a right not to be evicted from one's home without due legal process, South African courts have, with increasing regularity, become embroiled in disputes pertaining to the eviction and/or relocation of such urban inhabitants. Our discussion here focuses on two related decisions that have pertained to evictions in pursuit of inner-city regeneration in Johannesburg. While these decisions are not exhaustive of the high-level jurisprudence in this area (which includes, pertinently, the decisions of the Constitutional Court in Port Elizabeth Municipality v. Various Occupiers (2004) and Residents of Joe Slovo Community and Western Cape v. Thubelisha Homes (2009), which will only be referred to in passing here), they are representative thereof and adequately capture the tensions between the interests of local government and private capital in dictating the terms of urban regeneration on the one hand, and those of inner-city inhabitants in maintaining their livelihoods on the

other. They also show how courts have engaged with the notion of urban citizenship, which is intimately linked with the community in which one resides and with relationships within that community.

The related matters of City of Johannesburg v. Rand Properties (2007—hereinafter 'Rand Properties') and Occupiers of 51 Olivia Road and Berea Township v. City of Johannesburg (2008—hereinafter 'Olivia Road') involved evictions from derelict apartment buildings in Johannesburg's inner-city suburb of Hillbrow. Previously the preserve of a socially liberal, 'upper-class-yet-somewhat-boho' Joburg set, it underwent a period of capital flight in the 1990s (see COHRE 2005: 17), and many buildings were 'hijacked' by landlords who began to unlawfully charge rent to tenants. Low rents and levies meant that body corporates were weakened or non-existent, and buildings fell into disrepair.

In 2003, the City of Johannesburg, principally through the Better Buildings Programme (BBP) began identifying 'bad' buildings in an attempt to clean up those buildings that had fallen into disrepair. An eviction order against the occupiers would be obtained, whereafter the City would clean up the building, and would then rent it out to low-income tenants.

The problem with the BBP was that it largely ignored the presence and livelihoods of tenants in these 'bad' buildings. The focus of the City remained on eradicating the illegal 'owners' of the buildings, whose unlawful 'ownership' was said to facilitate crime and grime, not to mention a lack of formal revenue for the City's coffers. For the majority of tenants, however, the buildings—although 'bad'—provided a central and affordable housing alternative to living in abject poverty in similarly bad, if not worse, conditions, on the outskirts of the city.

The net result was that the City was caught between a rock and hard place—on the one hand, it was faced with unscrupulous building 'owners' and, on the other, with bona fide tenants paying rental to the illegal owners. Confronted with an increasingly unsustainable and dejected community, it resorted to using the Red Ants, whose customary brutish eviction tactics garnered a negative rapport with human rights groups. Residents accordingly sought to challenge the evictions in court.

The first challenge to these evictions came with Rand Properties. The case dealt principally with the 16-floor San Jose building in Hillbrow, which was found to be flooded with sewer water and was considered an unsafe fire hazard (see Rand Properties 2007: paragraph 8). The High Court ordered the City to devise and implement a comprehensive and coordinated plan within its available resources to progressively realise the right to adequate housing. Pending such a plan, or pending the provision of alternative accommodation to the residents, the City was interdicted from evicting the residents (Rand Properties 2007: paragraph 15).

The Supreme Court of Appeal (SCA), however, overturned this decision. It authorized the eviction, but directed the City to provide alternative accommodation to the residents. However, while acknowledging that 'the State would be failing in its duty if it were to ignore or fail to give due regard to the relationship between location of residence and the place where persons earn or try to earn their living' (Rand Properties 2007: paragraph 44), it declined to order that the alternative accommodation had to be in the close vicinity of the inner city, holding that the right of access to adequate housing did not create an entitlement to be accommodated at a locality of one's choice (Rand Properties 2007: paragraphs 44 and 75).

Rand Properties arguably demonstrated a limited understanding of the right to housing and its relationship with urban space, and also failed to appreciate the specific plight of the evictees. The SCA compared the inner-city to a heritage site, and did not regard the economic circumstances in which the occupiers found themselves as 'legally relevant' to the question of whether an eviction should be granted (Rand Properties 2007: paragraph 40). This meant that, for an eviction to be legally sanctioned, there only had to be a 'relationship between the means employed, namely the eviction, and the end sought to be achieved, namely the purpose of the law in question' (Rand Properties 2007: paragraph 42).

The problem with this approach, aside from its lack of meaningful scrutiny, is that it allows City governors to determine the purpose of evictions and, importantly, the reasonableness thereof. It does not interrogate the underlying motive behind evictions, or determine the constitutionality of this motive. Importantly, it fails to develop a substantive jurisprudence around housing rights (and, concurrently, a right to the city), specifically by refusing to recognise the City's duty to develop an understanding of the minimum core of the right (Rand Properties 2007: paragraph 43). Instead, it places too much power in the City, ostensibly because of the SCA's conviction that 'it is for the democratically elected government of the City to determine what its vision of the inner city is. Courts are not equipped or entitled to second guess this type of policy decision' (Rand Properties 2007: paragraph 45).

This conceptualization of the judicial role in relation to policy critique is not unusual for courts, and there are those who have argued that it is necessary in our democratic sphere where separation of powers is entrenched (see, for example, Currie: 1999). However, the extent of the SCA's deference to City governors in Rand Properties arguably disenfranchised Johannesburg residents and disregarded their vision, and lived experience, of the inner city. By failing to engage with the substantive arguments why this eviction was unlawful, and the manner in which it was done, the Court failed to give content to the right to the city.

Fortunately, the Constitutional Court's approach, on appeal of this matter in Olivia Road, appeared to be significantly more in tune with the right to the city. For one, the Court acknowledged that the Executive had undertaken certain core obligations towards citizens in terms of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act:

> 'It must provide services to communities in a sustainable manner, promote social and economic development, and encourage the involvement of communities and community organisations in matters of local government. It also has the obligation to fulfil the objectives mentioned in the preamble to the Constitution to '[i]mprove the quality of life of all citizens and free the potential of each person'. Most importantly, it must respect, protect, promote and fulfil the right in the Bill of Rights. The most important of these rights for present purposes is the right to human dignity and the right to life' (Olivia Road 2008: paragraph 16).

For another, and significantly, the Court recognised that engagement should be the defining factor in City relations with citizens. It noted that 'a municipality that ejects people from their homes without first meaningfully engaging with them acts in a manner that is broadly at odds with the spirit and purpose of [its] constitutional

obligations' (Olivia Road 2008: paragraph 16). This engagement had to include a consideration of factors such as the consequences of the eviction, the specific plight of those occupiers in dire circumstances, and a plan and timeline to deal with the occupiers during the eviction period (Olivia Road 2008: paragraph 14).

The Court also took a far more substantive approach to the actual, lived circumstances of the occupiers. This included looking at the vulnerability of people about to be evicted, the fact that occupiers may not be able to understand the importance of engagement and may accordingly walk away from such process, and that, because in many circumstances such occupiers may be illiterate, poor and therefore have limited access to resources to enforce their rights, engagement should be managed in a careful and sensitive manner (Olivia Road 2008: paragraph 15).

The Court held that, as the City had not engaged meaningfully in a reasonable manner with the occupiers, the eviction was unlawful (Olivia Road 2008: paragraph 22). However, prior to the case being concluded, the City and the occupiers reached a settlement agreement, so there was no need for the Court to determine a resolution to the specific dispute. Instead, the Court simply approved this agreement.

In the context of the right to the city, *Olivia Road* is to be welcomed because of its espousal of the process of engagement, which resonates with the dialogic and participatory dimensions of the right (Huchzermeyer 2009). By lending voice to inner city inhabitants and mandating the consideration of their housing rights in disputes concerning their eviction by more powerful social actors, the judgement has further provided an important counterweight to the absoluteness of ownership rights in the struggle over urban space (Murray 2008: 224; Wilson 2009).

The judgement also gives credence to the idea of urban citizenship. In mandating the City towards a process of engagement with its citizens, it notes that the City cannot enfranchise some citizens and disenfranchise others in determining a developmental vision for the city (Dirsuweit 2006: 297). The very term 'engagement', although somewhat vague and aspirational, suggests an ideal of equality between City and citizens and has arguably infused itself into the everyday thinking of city governance. Examples of this include the City of Johannesburg's Growth and Development Strategy 2040 (see http://www.joburg.org.za/gds2040/gds2040.php) as well as the frequent engagement of social media outlets, such as Twitter accounts, by the mayors of Johannesburg and Cape Town.

Be that as it may, we should remain aware of the power imbalances inherent to engagement and the extent to which the process remains to be dictated by the City's political objectives and its inclination towards controlling and implementing its own vision of the City, rather than inhabitants' claims to city space. In the subsequent matter of *Joe Slovo*, for example, the Constitutional Court granted a large-scale eviction and relocation order in favour of the City of Cape Town, despite finding that the engagement process between the City and the displaced residents was deficient, because of the overall legitimacy and reasonableness of the City's development objectives (see Residents of Joe Slovo Community and Western Cape v. Thubelisha Homes 2009: paragraphs 113, 108, 117, 229 and 238).

It is also unfortunate that the *Olivia Road* judgement did not lay down more exact standards in relation to the content of the right to adequate housing, specifically in relation to the location of alternative accommodation. More specifically, Huchzermeyer (2009) laments that *Olivia Road* failed to prevent the relocation of inner city inhabitants

to the urban periphery—a concern borne out by the endorsement of such a relocation order in *Joe Slovo*, albeit with an important proviso that relocation had to be accompanied by transport facilities to enable continued access to places of work and education (Residents of Joe Slovo Community and Western Cape v. Thubelisha Homes 2009: paragraphs 5, 7, 107, 165 and 322).

However, it is submitted that the *Olivia Road* Court's approval of the settlement agreement between the parties—and the contents therein—could set a precedent for future interim measures in the case of evictions, which would represent a move towards a more substantive right to the city. The settlement agreement included measures on the installation of chemical toilets, the cleaning and sanitation of a building, the delivery of refuse bags and the installation of fire extinguishers. The agreement also included an obligation on the City to provide alternative accommodation in certain identified buildings, and specified the nature, standard and rent applicable to such accommodation (Olivia Road 2008: paragraph 25—see also the detailed requirements laid down in relation to alternative accommodation in Residents of Joe Slovo Community and Western Cape v. Thubelisha Homes 2009: paragraphs 5 and 7).

Claims for Enjoyment of Urban Services

As noted above, the housing jurisprudence discussed has made an important contribution to the development of a right to the city, by affirming the inherent connections between lived space and urban citizenship. But attempts to create an equitable urban citizenship are also consistently undermined by unequal access to the material benefits of such citizenship (Hammett 2008: 653). Accordingly, judicial engagement with rights-claims pertaining to access to essential urban services are shaping both the material dimensions of the right to the city and the nature of contemporary South African urban citizenship (Enslin 2003: 76–79).

The Constitutional Court has, through the years, affirmed that local government is obliged to render municipal services in a sustained and equitable manner (Mkontwana v. Nelson Mandela Metropolitan Municipality 2005: paragraphs 1, 52 and 104; Joseph v. City of Johannesburg 2010: paragraphs 33, 39 and 46. See also Parnell and Pieterse 2010: 148) and that it has to take positive measures to correct for historical inequalities in service provision between different, formerly racially segregated, urban neighbourhoods (Pretoria City Council v. Walker 1998: paragraphs 32 and 46. See also Liebenberg and Goldblatt 2007: 351). In recent years, urban inhabitants have increasingly invoked rights in the Bill of Rights to challenge both the mode of delivery of essential urban services and the manner in which such service provision has structured the relationship between them and the City. The 'cry and demand' for sustainable urban living has permeated all of these claims.

Public Transport

The case of *Rail Commuters Action Group v. Transnet t/a Metrorail* arose out of public discontent with the safety of rail transport services in Cape Town. After a number of people were killed or seriously injured in the course of violent assaults on Cape Town's metropolitan trains, the local community organised themselves and

brought legal action for damages against Transnet, the para-statal responsible for South African railway services. In response, Transnet denied that it had a legal obligation to ensure safety on trains, claiming that this was the exclusive responsibility of the South African Police Service.

Noting that poor and historically marginalised communities on the outskirts of Cape Town had little choice but to utilize rail services in order to access work opportunities in the inner city, the Constitutional Court affirmed that safety on trains implicated constitutional rights to life, security of the person and freedom from violence. It accordingly held that Transnet did indeed have a legal obligation, in terms of both the Constitution and applicable legislation, to render rail services in a manner consistent with these constitutional rights of commuters. The Court issued a declaratory order to this effect, which would found legal liability in future cases of this nature (see Rail Commuters 2005: paragraphs 8, 82–83 and 111.3) and accordingly ensured that relevant agencies could no longer deny their responsibility to provide safe and meaningful public access to the city, especially for its for poor and geographically marginalised inhabitants.

Although there is no specific provision in the Constitution pertaining to public transport, the Rail Commuters decision sets a precedent for future conceptualizations of public transport as being integral to, amongst others, rights to life, security of the person and freedom from violence. The decision also sets certain qualitative standards for the provision of public transport and is commendable for its affirmation of the links between physical security and urban service provision. However, it mostly fails to elaborate on the extent to which the enjoyment of other socio-economic rights which contribute to full urban citizenship, such as the rights of access to housing and health care services, depend to a large degree on the provision of safe, efficient and affordable public transport. As such, the findings on public transport remain somewhat disconnected from the notion of urban citizenship and from the right to the city.

Courts are however likely to struggle with regards to interpreting a ‘right’ to public transport, precisely because there is not one in the Constitution. Nevertheless, courts should be aware of the importance of inclusive and extensive public transport for the realisation of the right to the city, because of its deep-seated connection with urban citizenship and public space. Public transport effectively acts as a facilitator for the values upon which the Constitution resides, and courts therefore need to be aware of its overarching importance.

Public transport not only connects society, but also has the potential to unite different and disparate communities through its shared public space. This, in turn, has numerous other benefits, such as providing a platform for constitutionally enshrined freedoms of expression, belief, opinion and movement (Constitution, sections 15–16 and 21), as well as redressing those social disconnections brought about by a car-centric society and a devaluation of public space, which promotes inequality and separation and is clearly irreconcilable with the democratic values of universality and equality (Lemanski 2004: 107).

Water

A more clear-cut right to services comes in the form of the right to water, contained in section 27(1)(b) of the Constitution. The recent high-profile campaign around

access to water in Soweto presents an example both of the usefulness of invoking law in the course of broader struggles over the methods of essential urban service delivery and of the limits of constitutional adjudication in this context (Dugard 2008: 606–610; Von Schnitzler 2008: 899–900).

When the City of Johannesburg decided to regulate the delivery of water in urban townships, where inhabitants previously accessed water informally, by installing prepaid water meters which would allow access to a prescribed amount of free water monthly, but would thereafter cut off the supply unless additional water was purchased, it faced widespread community resistance. This culminated in a legal challenge to the policy in terms of which the meters were installed. It was contended, in *Mazibuko v. City of Johannesburg*, that the amount of free water provided in terms of the policy was too little to satisfy the constitutional standard of access to sufficient water (especially in relation to households of above-average size), that the policy allowed for discontinuation of water supply without adequate procedural safeguards and that it discriminated unfairly between township residents and those in wealthier suburbs where uninterrupted water was provided through a consumer-credit system.

Despite widely celebrated victories in the lower courts, these claims were ultimately dismissed by the Constitutional Court. The Court declined to inquire into the sufficiency of the amount of free water provided in terms of the policy, choosing instead to evaluate the overall reasonableness of the policy, which was amended by the City during the course of the litigation to provide for an additional amount of free water upon application by indigent households. The Court held that the policy had to be viewed holistically in light of the general challenges facing service delivery in Johannesburg, including the need to curb water wastage, the need to ensure payment for services and the need to extend service provision equitably across diverse neighbourhoods. It found that, overall, the policy was reasonable and non-discriminatory, particularly since it flowed from extensive community consultation, was continuously amended in accordance with the community's legal demands, did not allow for the permanent disconnection of water services and provided for additional free water for indigent households (Mazibuko 2010: paragraphs 7, 59, 78–102, 126 and 160).

The *Mazibuko* judgement may rightly be lamented for stunting the more radical dimensions of the right to the city, by endorsing and upholding an essentially neo-liberal, consumer-based model of urban service delivery (Narsiah 2011: 154; Sinwell 2010: 168; Von Schnitzler 2008: 906–907 and 911–913) and by accordingly denying that urban citizens who are unable to pay for water within a consumer-based paradigm have an entitlement to essential services over and above the free basic allocation (for criticism of the manner in which the judgement inhibits the development of socio-economic rights jurisprudence, see further Liebenberg 2010: 477–480). But the judgement also shows how invocation of constitutional rights against urban governments can force relevant agencies to engage with communities and can accordingly impact on the eventual content of policies, thereby giving effect to the dialogic and participatory elements of the right to the city. In this respect, the gains made in relation to the allocation of additional free water to indigent households, which was a direct outcome of the litigation, should not be overlooked (Narsiah 2011: 154).

Electricity

A further illustration of how constitutional rights have empowered urban inhabitants against public organs in the context of service delivery, is the matter of *Joseph v. City of Johannesburg*, in which the Constitutional Court found that the City had to adhere to dictates of procedural fairness when disconnecting electricity supplies to inhabitants, even where they were not themselves in a direct contractual relationship with the City. The applicants were living in an apartment block in inner Johannesburg and paid water and electricity charges to their landlord, who in turn failed to settle his service account with the City. When the City proceeded to terminate the electricity supply to the building without notice to the tenants, they instituted legal proceedings, claiming that the right of adequate housing contained within it a right of access to electricity, which could not unreasonably be withheld.

The Court declined to consider this claim, but held that the applicants had a 'general public law right' to be treated fairly in the course of service delivery, which right flowed from the '… special cluster of relationships that exist between a municipality and its citizens, which is fundamentally cemented by the public responsibilities that a municipality bears in terms of the Constitution and legislation in respect of persons living in its jurisdiction' (Joseph v. City of Johannesburg 2010: paragraph 24). The tenants were accordingly entitled to procedural fairness, including reasonable notice and the opportunity to make representations, when decisions that adversely affected their enjoyment of municipal services were taken. The disconnection of the electricity supply to the building was accordingly held to have been unlawful (Joseph v. City of Johannesburg 2010: paragraphs 33, 39, 46, 544, 60, 63 and 73).

While the Joseph decision may be commended for its acknowledgement that particular service-related rights and obligations flow from the special relationship between a municipality and its citizens, it is worrying that the judgement, like that in *Mazibuko* (and, to a lesser extent, in *Rail Commuters*), appears to ascribe to a narrow conception of urban citizenship, as being limited to those urban inhabitants who are willing and able to pay for the services that they receive and who are accordingly, at least indirectly, in a customer-based relationship with the City. It would therefore appear that, while the Constitutional Court acknowledges entitlements to socio-economic rights, it does so within a neo-liberal paradigm that, by ascribing to a consumerist model of urban citizenship, potentially excludes some of the most vulnerable and marginalised urban inhabitants from the material entitlements flowing from the right to the city (for a similar criticism of the legal process more broadly, see Sinwell 2010: 168. On the disenfranchising consequences of such a jurisprudence of 'unentitlement', see further Hammett 2008: 653–656).

Claims for Appropriation of Public Space

Arguably the most powerful manner in which to assert urban citizenship and the right to the city is through physical presence in the public spaces of the city (Mitchell 1997: 321 and 327; Staeheli and Thompson 1997: 29–30; Staeheli et al. 2002: 202). Conversely, attempts to silence and disenfranchise marginalised community members and to deny their right to the city often take the form of either

denying their right to physical presence in its shared spaces or restricting their activities there (see, for instance Mitchell 1997: 305–307, 310–311 and 320; Mitchell 2003: 162–163 and 171–172; Staeheli and Thompson 1997: 31; Waldron 1991: 300–321 in relation to laws regulating the public presence of homeless persons).

This takes on a particularly insidious dimension in South Africa where, as outlined above, public space represented the physical manifestation of apartheid. This legacy remains, and it seems to only be in a few circumstances where South Africans of differing racial and class backgrounds come together in shared space and where the idea of belonging accordingly begins to take on some form of currency. For the most part, the continued struggle for appropriation and habitation of South African cities often takes the form of marginalised persons or groups claiming access to spaces in which they are deemed not to 'belong'.

This struggle in particular often centers around the reach of private property rights, which tend to be invoked by propertied classes to exclude 'undesirable' (different) persons from a range of spaces, ranging from spaces regarded as 'completely' private (such as individually owned residences or shops), through privately owned spaces which nevertheless exhibit 'public' characteristics (such as shopping malls or entertainment complexes), to predominantly public spaces which have been annexed by private commercial or property interests (such as inner city commercial improvement districts or suburban streets). In all of these scenarios, private property interests need to be balanced against, or reconciled with, the right to the (public spaces of) the city (see, for instance, Dirsuweit 2002: 6–15; Kirby 2008: 75–77; Layard 2010: 415–416, 428 and 436–439; Lemanski et al. 2008: 134–135 and 151–155; Le Roux 2006: 36–40 and 49; Miraftab 2007: 617 and 620–621; Murray 2008: 26 and 35–37; SAHRC 2005: 4–5, 15, 17 and 26).

In this regard, the Waterfront case (Victoria and Alfred Waterfront v. Police Commissioner, Western Cape 2004—hereinafter '*V&A Waterfront*') is a welcome addition to South Africa's human rights jurisprudence, because of its recognition that the city, and its urban space, belongs to all who live in it, particularly where the space possesses aspects that give it a public character.

The Victoria and Alfred Waterfront is one of South Africa's premier tourist spots, a mixed-use area situated adjacent to Cape Town's harbour and integrated seamlessly into the city's urban framework, appearing for all intents and purposes as a district of Cape Town. It attracts an upmarket clientele and offers its visitors an 'abundance of unforgettable experiences' (www.waterfront.co.za), ranging from dining to accommodation to office space. It is conceivable that the owners of the Waterfront, a private company, did not expect such experiences to include the harassment, interference and causing of harm to visitors by the two respondents in this matter, who found the upmarket area to be a good place to beg for money from its patrons.

The Waterfront, however, also found the respondents to be somewhat of a nuisance and claimed, amongst other things, that the respondents were abusive towards its tenants and their employees, as well as their patrons. The result was seemingly an unpleasant situation for the Waterfront, and it evidently foresaw or experienced the loss of business as a result of the actions of the respondents, so much so that after repeated efforts to forcefully remove the respondents from the area, it sought and obtained an order from the Cape High Court forbidding the

respondents from entering the premises of the Waterfront, as well as from interfering with, harassing or causing harm to patrons and tenants alike. It even sought to add to this list a prohibition on begging at the Waterfront (V&A Waterfront 2004: 447).

On review of the above order, its constitutionality was called into question by the Court. The Waterfront argued that a key component of its right to property, in terms of section 25 of the Constitution, was 'the power to exclude others and exercise control over property' (V&A Waterfront 2004: 449E-F). It also contended that private property 'does not lose its private character merely because the public is generally invited to use it for designated purposes' (V&A Waterfront 2004: 449H).

The problem with the above scenario is that the Waterfront was not actually a private property, but an intensely public one. It contains, amongst others, a post office, a police charge office, public roads, and also—apart from a rubber dinghy operating from Mouille Point—the only way for the public to access Robben Island (V&A Waterfront 2004: 448I-J). Its character was therefore public, and to restrict persons from such an area would not only be contrary to the constitutional rights to freedom of movement and to dignity, but could also be read as indirectly discriminating against people such as the respondents on the ground of race (V&A Waterfront 2004: 448G-H).

The Court also recognised the linkage between private property rights and the socio-economic circumstances of Cape Town, noting that 'the issue of begging frequently raises a direct tension between the right to life and property rights' (V&A Waterfront 2004: 448D-E). Notably, he said, 'in that event, the *property rights must give way* to some extent. The rights to life and dignity are the most important of all human rights. By committing ourselves to a society founded on the recognition of human rights we are required to *value those rights* above all others' (V&A Waterfront 2004: 448D-E, our emphasis).

While it is unfortunate that the Court did not elaborate much in noting the above, we submit that these views could have significant impact on shaping urban space in South African cities. In seeking to achieve a more just and equitable society, private property rights cannot be invoked to create and enforce segregation, as doing so would run against the very ideals of the Constitution. This does not mean that the core ideas of private property are to be completely eroded, but does postulate that the interpretation of private property rights (and their reconciliation with the right to the city) cannot be conducted in a vacuum, without regard to broader the socio-economic situation in the country. The Waterfront case provides a clear principle that where 'private' property facilitates and provides for public access, owners cannot pick and choose which aspects or classes of the public they wish to allow to their property if such property maintains a public character. This has important consequences for other 'private' properties that operate similarly, which include developments characteristic of 'new urbanism', gated suburbs as well the actions of city authorities attempting to 'gentrify' urban areas.

What actual impact the Waterfront decision will have, however, remains to be seen. It certainly has a long way to go towards eradicating the scourge of, in particular, gated estates, the pernicious effects of which have been well-documented (see Dirsuweit 2002: 3–19; Le Roux 2006: 25–50; Lemanski 2006: 787–802). Moreover, while its finding that the rights to life and dignity should trump the right to private property when it comes to claims for the habitation and appropriation of

urban space that exhibits public characteristics certainly goes a long way towards vindicating the right to the city, the interpretation and implementation of the ethos inherent in the decision will largely be left to municipality planning departments and development facilitation tribunals.

Conclusions

Legally justiciable socio-economic rights are empowering in that they allow powerless or marginalised individuals and groups to audibly articulate claims for access to basic social amenities while mandating powerful social actors to take these claims seriously. When deciding rights claims, courts accordingly provide an important forum for equal engagement between powerful and powerless social actors and for the balancing of competing socio-economic interests (Liebenberg 2006: 7–8; Pieterse 2006: 477).

In this article, we have argued that the recognition and enforcement of legal rights can accordingly embody, facilitate and enhance various constituent elements of the right to the city. More specifically, we have shown that South African courts' adjudication of rights claims arising from the 1996 Constitution has unwittingly given legal effect to, or otherwise impacted on, several features of this right. By relying on rights in the Bill of Rights, poor and marginalised urban inhabitants have been able to insist that their voices be heeded, and their circumstances taken into account, in conversations over the form and function of South African cities.

Simultaneously, the Constitution's entrenchment of rights representing constituent elements of the right to the city has led to urban design and governance processes becoming increasingly legalized. Such processes are progressively subjected to judicial scrutiny for constitutional compliance, especially in instances where they have the effect of excluding poor and marginalised persons from the city. It may be expected that, as the legal dimensions of the right to the city crystallize further, its impact will be felt in a wide range of policy fields, ranging from municipal bylaws, to zoning requirements for new-urbanism-type developments, to the regulation of private security measures, public transport and telecommunications.

While we generally welcome this, we recognise that the effect of legal outcomes on these policy processes can be disruptive, especially where judges are not aware of the contexts in which the impact of their judgements are felt, or where those tasked with conceiving or implementing urban policies are unfamiliar with the requirements posed by the constitutional standards to which they must adhere. One way in which this can be ameliorated is for policy makers and practitioners to be made more aware of the human rights impact of their work and to incorporate constitutional compliance into their understandings of urban sustainability.

But it is also clear that the judicial enforcement of legal rights may frustrate important dimensions of the right to the city. For instance, the absolute, case-specific and precedent bound nature of rights-vindication may disrupt the fluid processes by which the right is continuously constituted and reconstituted through struggle and lived practice. It is also possible that the legal weighing of constitutionally enumerated and un-enumerated constituent elements of the right may result in an overly hierarchical determination of interests. Moreover, the atomistic and trump-

like characteristics of legal rights, together with the adversarial nature of the legal process and the typical one sidedness of its outcomes, may disrupt or unduly predetermine the continuous balance between competing claims to the city, in either its concrete or aspirational forms.

More specifically, courts' current approach to the adjudication of rights claims in the socio-economic policy arena may ultimately prove detrimental to the actualization of the right to the city. The Constitutional Court has been criticized for failing to give rights in the Bill of Rights sufficient substantive content in its interpretation and enforcement thereof (see, in different contexts, Bilchitz 2007; Woolman 2007). It often decides matters narrowly and interprets rights only within the context of specific matters brought before it. Perhaps more perniciously, the Court often refrains from giving specific guidance to the Executive arm of government on the nature of its obligations flowing from any particular right. Given that the right to the city involves an examination of policy that at its core is traditionally considered to be within the domain of the Executive, and further that the right to the city is in many respects an amalgamation of other rights that require policy-formation in and of themselves, there is a danger that the judiciary could, in its construction of the right to the city, fall into the same trap of failing to give the right/s any substance.

This is understandable—in a legal system based on the separation of powers and within a political context where the executive holds much legitimacy in the minds of the people and where the judiciary conversely struggles to gain a strong level of support from the general public (see Gibson and Caldeira 2003: 9–12), courts are bound to be weary of being seen to be overstepping institutional boundaries in terms of the development of policy (on the manner in which the Constitutional Court manages these tensions, see Roux 2009). This is arguably particularly true when it comes to matters affecting city governance, perhaps because of the more localized and direct connection between the City and the people. However, the danger is that, when enforcing constituent elements of the right to the city, the amount of deference shown by courts to local governments may be such that City governors' vision of the city is left unquestioned and that their interests are allowed to dictate the terms of engagement over the form of the city, at the expense of the interests of marginalised and poor city inhabitants. More specifically, this article has shown that the extent to which courts currently align themselves with the neo-liberal conception of citizenship that underlies much government policy pertaining to urban development, runs the risk of significantly depleting the right to the city (see also Sinwell 2010: 168).

Nevertheless, the constitutional ensconcement of the constituent elements of the right to the city has meant that courts have, for better or worse, become venues where its content will be contested and, to a greater or lesser extent, decided. We would accordingly advocate for increased dialogue between the legal fraternity on the one hand, and the community of architects, town planners and local government actors on the other. Lawyers and judges need to be more aware of the context, content and nuances of the right to the city and of the manner in which legal arguments and interpretative practices impact on its actualization. Judgements impacting on the right to the city should reflect the interdependence of rights and should attempt to balance the competing interests at stake in a manner that does not compromise the essence of the right to the city.

Institutionally, the judiciary should see itself more as an arbiter or mediator between the City and its citizens than as a usurper of city power. It should provide for a space where the way in which citizens want to live, and the way in which the City wants to govern itself, is debated in a manner that is substantive and engaging, and where competing interests are balanced in a manner that allows for the full right to the city to become a lived reality.

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