

# Emerging urban rights\*

## Derechos urbanos emergentes

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Artículo de revisión

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### ABSTRACT

Emerging urban rights are seen as a response to the current crisis in cities. The world stopped being rural to become urban. The prevailing urban model is predatory and inhumane. The current COVID-19 crisis reveals a number of systemic problems in cities. Traditional human rights do not respond to the urban emergency on the streets. The vast majority of citizens live in informal neighborhoods, without provision of water, gas service, basic sanitation, proper infrastructure, or electricity. They live in overcrowded spaces, in cities where urban rights are guaranteed. The new social groups or citizenships in emergency ask for the cities to provide

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\* Article based on the doctoral dissertation named *The right to the city. The city towards the right: a look from the urban actions of Bogotá Humana* (Gnecco, 2020a).

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basic minimums that allow dignifying urban environments. In this sense, as well as new categories have been created, such as ecological rights, solidarity rights, republican rights, it is then proposed to raise emergent urban rights as a category. This review article is a contribution to this subject.

*Keywords:* COVID-19; right to the city; emerging rights; urban revolution.

## RESUMEN

Los derechos urbanos emergentes se plantean como una respuesta a la crisis que viven las ciudades hoy en día. El mundo dejó de ser rural y ahora es urbano. El modelo urbano imperante es depredador e inhumano. La actual crisis de la COVID-19 revela una serie de problemas sistémicos en la ciudad. En este panorama, los derechos humanos tradicionales no dan respuesta a la emergencia urbana que se vive en las calles. La gran mayoría de ciudadanos habitan en barrios informales, sin servicios de agua, gas y electricidad, de igual modo sin saneamiento básico o infraestructuras adecuadas. Viven en espacios hacinados, en una ciudad que no garantiza derechos urbanos. Nuevos colectivos sociales o ciudadanías en emergencia piden que la ciudad tenga unos mínimos básicos que permitan dignificar los entornos urbanos. En este sentido, así como se han creado nuevas categorías, como son los derechos ecológicos, los derechos de solidaridad, los derechos republicanos, entre otros, también se propone como categoría a los derechos urbanos emergentes. Este artículo de revisión es un aporte en esa línea.

**Palabras clave:** COVID-19; derecho a la ciudad; derechos emergentes; revolución urbana.

## 1. INTRODUCTION

We are living a time in which new and renewed human and non-human needs are constituted as challenges to the theory of human rights and to technological and scientific advances. At the same time, the economic, social and health crises force us to think about alternatives that the world of law tries to meet with the category of emerging rights (Saura, 2014).

Some prefer to speak of emerging human rights; However, the term human leaves out a series of rights that have been recognized, such as the rights of animals and the rights of nature. Indeed, the category of emerging rights can complement or challenge traditional theories of human rights.

The driving idea that this article stand for is that emerging rights are the answer to a new generation of rights and the result of prolific aspirations that gather the claims of a large number of movements and social groups that, generally, have come to question the established political, legal and economic system (Rodríguez, 2014).

Now, thanks to this new category of rights, called emerging rights, several claims have been made that deserve to be worthy of protection and guarantees, as is the case of urban rights. Several of these rights are already affirmed in some legal systems as fundamental, social or collective rights. However, this type of category or classification of rights is becoming obsolete. The world became urban, so it is necessary to demand a minimum catalog of rights that must be protected or understood from an urban approach.

According to UN-Habitat, 1.6 billion residents do not have the minimum conditions for a decent life in cities. In other words, they live in informal neighborhoods, without access to water, basic sanitation, appropriate housing, infrastructure; they are overcrowded, with no public spaces, far from everything, close to others in worse conditions (De Sousa Santos, 2020, § 6). In short, they subsist in cities that do not guarantee a minimum of essential rights to dignify urban life or, what is worse, they inhabit cities without having rights to them.

In times of COVID-19, measures such as isolation or quarantines in cities, recommended to overcome the pandemic, assume that people have housing, food, social assistance, adequate spaces, utilities, internet connectivity, etc. (Du, King, Chanchani, 2020). But this is not the case, most citizens do not have these rights to urban settings.

That said, this article proposes the existence of urban rights to dignify life in cities, namely: mobility, facilities, urban structure, environment, urban landscape, housing, participation, centrality, among others.

It should be noted that the need for urban rights is due to the fact that there is an environmental, social and economic crisis in the city. Specifically, traditional human rights are static, they do not solve the problems that COVID-19 has revealed and deepened. Many people die at home or go physically hungry because of isolation or quarantine measures, because they do not have a basic income, basic equipment nearby, adequate housing, or because they do not have drinking water in their homes or are unaware of the risks they face with this pandemic.

In this way, the proposal for emerging urban rights can help dignify and protect life in the city. Faced with the urban emergency that is experienced in the streets by COVID-19, the legal system must respond with emerging urban rights.

In this context, the category of emerging rights allows for the expansion, renewal and recognition of a set of rights that are exercised in urban environments, in cities. These have been claimed by millions of people, but, paradoxically, the traditional legal system has not been able to interpret, recognize, or adopt them, which is why it has become outdated in the face of the current urban emergency.

## **2. RESEARCH METHODOLOGY**

This review article links law with various disciplines of knowledge, such as architecture, sociology, urban geography and urbanism. In this sense, by being nurtured interdisciplinary, this work assumes the characteristics of an applied research (Vanegas et al, 2010) and, specifically, it is part of the typology of socio-legal research. The latter is explained because emerging urban rights are claimed in the streets, in cities, in urban environments. They are rights that are alive and are part of a social construction.

Likewise, the purpose of the aforementioned disciplines is to provide and build a better quality of life for all human and non-human beings, taking into account that cities and urban environments constitute a social fact (Tantaleán, 2016). According to Lefebvre (1969), it is the citizens who build cities. In this order of ideas, this review article proposes urban rights as emerging rights that are born, nurtured and recognized by the social reality of cities (Borja, 2013; Saura, 2014; Rodríguez, 2014).

This article offers a doctrinal review that allows us to respond to the emergency that currently affects citizens in urban environments, a new category of rights: emerging urban rights (Guirao-Goris, Olmedo and Ferrer, 2008)

On the other hand, according to the classic cataloging of research methods (theoretical and practical) (Vanegas et al, 2010), in this article the theoretical-deductive method was used —essentially—, since general proposals are made focused on creating specific knowledge about the law; specifically, in urban law.

The main information gathering technique used was the analysis of articles, reports and documents (Hernández, Fernández, Baptista, 2010). A documentary review was made of the work of professors, doctrinaires and authors who have spoken and written about urban rights or rights to the city.

In relation to this technique, the research had as its structure a plethora of secondary sources: books, scientific articles, case-laws, academic works, doctoral dissertations, legislation, and reports.

It is important to highlight that the interest in the issue of emerging urban rights is due to the fact that there is a systemic crisis in cities. COVID-19 has revealed and deepened the problems of urban environments. Life in cities has gotten harder. The Anthropocene lurks. Classic human rights became obsolete. People die in their homes for complying with quarantines, for not having a basic equipment nearby, for not being in the centrality or for not being able to participate in city decisions.

### **3. EMERGING URBAN RIGHTS. COVID-19 AND CITIES**

Today's world is urban; more than 55% of the world's population lives in cities. The enormous rural space of years ago has been transformed into urban areas, suburbs, conurbations, megacities and technopolises. Looking to 2050, it is estimated that this proportion will increase to 13%, since about 2.5 billion people will move from rural areas to cities (United Nations, 2018).

The proliferation of large cities —or cities that look like a world— has generated a series of problems that affect their environments

and the living conditions of their inhabitants (Naredo, 2000). With the trend of increasing the population in urban areas, current problems, such as poverty, segregation, pressure on utilities (water, basic sanitation, electricity, internet), increased difficulties, especially in developing countries (Hidalgo, 2017).

According to UN-Habitat data, 1.6 billion people do not have adequate housing and 25% of the world's population lives in informal neighborhoods, without infrastructure or basic sanitation and without access to utilities, with a shortage of water and electricity. They live in small spaces where large families crowd together (De Sousa Santos, 2020, § 6).

However, the appearance of COVID-19 has made life harder in cities. According to the United Nations, around 95% of COVID-19 cases have been registered in cities. Thousands of cities, towns and villages are affected (Mizutori and Mohd, 2020).

According to García (2021), the eminent urban nature of the crisis has evidenced a series of systemic urban vulnerabilities, specifically, with regard to the absence or precariousness of housing, the lack of health care systems, of city planning, limited adequate facilities for water and basic sanitation, as well as restricted access to livelihoods.

The impact on the city and all those who inhabit it is evident. The crisis generated by the pandemic is structural. In this sense, it is an economic, social, health, environmental and humanitarian crisis. Humans became polluting agents; the more they circulate, the more they pollute.

COVID-19 can infect everyone. However, the most vulnerable are the poorest, due to overcrowded circumstances, little access to decent work, lack of basic services, restricted access to communications, and limited capacities to resist crises (Vera, Adler and Uribe, 2020).

Paradoxically, measures such as isolation or quarantines in cities, recommended to overcome the pandemic, assume that people have housing, adequate spaces, home services, social assistance, food, internet connectivity, etc. (Du, King, Chanchani, 2020). But it is not like that, most of the residents are not entitled to these rights in cities.

More than one billion people live in informal settlements and slums around the world. Between 50% and 80% of employment is informal

in developing cities; it is suffered by street vendors, domestic workers, bus drivers and migrant workers. Many of these families do not live, but rather survive from day to day, residing in dense neighborhoods, in overcrowded houses, with unreliable access, and often sharing household utilities, such as water, electricity, and sanitation (Du, King, Chanchani, 2020). Many do not have formal jobs; they are not part of the banking system and they do not have basic employment contracts or social security. Their income and workplaces are not on the radar of any state entity. In short, they lack the resources to survive without defying closure orders (Du, King, Chanchani, 2020).

Let us ask ourselves: What will the quarantine be like for those who do not have a home? How does someone without water wash hands? How do I stay home if my kids are hungry? How do I isolate when I live in crowded conditions? Don't quarantine and isolation measures make life harder for poor people in cities?

Although it is true that COVID-19 arrived suddenly, the crisis it generates is strengthened by the problems that already exist in urban areas (García, 2021; García and Vidal, 2019). The city in times of pandemic reveals and deepens social asymmetries, gentrification, social-spatial segregation and evictions, a predatory and inhuman urban model.

The unsustainability of the city is abysmal. Social inequalities, social segregation and economic poverty are crossed by state neglect, overcrowding of homes, lack of leisure spaces, high levels of informal employment, high-risk sanitary conditions, stigmatization and lack of a roof (Coto and Solís, 2020).

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The pandemic means reversing decades of progress on the Sustainable Development Goals (SDGs). The immediate impacts on the death of

more than 4.9 million people, as of October 17, 2021<sup>1</sup> (Orús, 2021), on social services, health and the economy have cost the destruction of millions of jobs and means of life.

The pandemic means reversing decades of progress on the Sustainable Development Goals (SDGs). They have also restricted the education of young people, increased violence against women and threatened food security, leading to a considerable increase in poverty and inequality (Task Force on Inequalities [HLCP], 2020).

The sustainable, resilient and safe city will not be a goal; it will be a mirage if the guidelines of the current urban development model are not changed. COVID-19 has revealed gigantic urban disparities related to a class dimension. In this sense, degraded urban environments, informal neighborhoods, favelas and peripheries have received a greater impact from the pandemic, due to the absence of adequate equipment and facilities, including homes and sanitary systems (Dizioli and Pinheiro, 2020).

As an example, the most advanced medical equipment, infrastructure, and services to fight COVID-19 are found in the wealthiest areas. The vaccine first reached the luxurious shopping centers and much later the abandoned peripheries. The most vulnerable population, located in degraded or peripheral areas, had to wait or travel long distances to be inoculated, seriously exposing themselves to the virus and increasing the risk of transmission. Others walked a couple of blocks, traveled by car, or traveled to another city or country to get inoculated. They even chose the brand of their vaccine.

In turn, in the midst of the COVID-19 crisis, the violation of human rights in cities has increased. In other words, the city does not guarantee human rights. Evictions and expulsions in times of pandemic are a challenge to the social and democratic rule of law.

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<sup>1</sup> As of October 17, 2021, around 4.9 million people died worldwide as a result of COVID-19. In Asia, the continent where the outbreak originated, the death toll reached around one million people and deaths in Europe exceed that figure by more than 289,500. Specifically, there have been approximately 1.35 million deaths from the novel coronavirus in the Old Continent. However, it is no longer the continent with the highest number of deaths from COVID-19; the figure recorded in America already exceeded 2.3 million deaths that day (Orús, 2021).

COVID-19 has been used as a justification to violate, restrict and limit fundamental rights, such as peaceful protest, mobility, habeas data, the right to health, access to basic services, among others. Citizens who violated the quarantine to protest against the Government for the economic measures it implemented to *confront* COVID-19 have suffered all kinds of humiliations from the Public Force. Also, those who left their homes in search of their vital minimum or demanded emergency care; in retaliation, they were subjected to violence by the police.

Faced with this urban emergency, emerging rights are demanded. Specifically, issues such as urban structure, facilities, mobility, connectivity, health services, centrality, proximity, density, public space, appropriation, adaptability, among others, deserve to be worthy of protection.

The urban emergency does not wait. Traditional human rights fail to meet the needs of citizens. A new category of rights is becoming more than necessary: emerging urban rights.

#### 4. EMERGING RIGHTS

The issue of emerging rights is relatively new in the legal and academic world. The Institute of Human Rights of Catalonia (2009) has been reiterating, permanently and publicly, the need to recognize as a legal category a series of rights that, although they have not been explicitly included in the binding legal texts, they have become a coherent and legally viable answer in favor of the needs of contemporary societies.

According to the Institute of Human Rights of Catalonia (2009) and Saura (2014), emerging rights are those that: 1) being positivized in the human rights protection system, they have been forgotten; 2) they can also be new rights, which arise due to the transformation of society by the revolution of technologies and globalization (Pareja and Guillén, 2006) or human or non-human rights that have expanded their 3) content or 4) ownership. These four characteristics are observed below with concrete examples<sup>2</sup>:

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<sup>2</sup> These characteristics are also explained in the doctoral dissertation and the article published by Gnecco (2020a and 2020b).

- **Forgotten rights.** These are rights that, despite being recognized in the legal system, have fallen into disuse and, in effect, are conceived as alien to the rights system. An example of this is the right to die with dignity<sup>3</sup>.
- **New human right.** The vital minimum or right to subsistence is the right that guarantees all the people indispensable conditions to ensure a dignified life within the possibilities of the State. They are minimum material conditions for a dignified existence (Arango and Lemaitre, 2002). The right to migrate, which has recently acquired special relevance due to the political or armed conflicts that exist in countries such as Venezuela and Syria, is a new right. In this sense, the new rights, by subtraction of matter, are not positivized in the legal system and, consequently, are fed back by the thesis of unnamed rights. That is, rights that are not expressly found in the constitution or in the norms that develop fundamental rights, but that, having a strict relationship with human dignity, are inherent and, therefore, enforceable, as fundamental (Sentence T-406/92, 1992; Const. 1991, art. 94).
- **Expansion of content on human rights already made positive.** As can be seen in the definition of the vital minimum or subsistence right, in some cases it is a derivation of the principles of the social and democratic state of law, and of human dignity, and when they are not derived, it is the relationship—in all case—with fundamental freedom or social rights, such as work, health, life and social security (Arango and Lemaitre, 2002).
- **Rights extended and broadened to population groups that traditionally have not benefited from them.** At this point, it should be noted that, through case-law, new fundamental rights have been created or the radius of action of already existing fundamental rights has been extended to people, groups or subjects (non-human-sentient beings) who did not enjoy them.

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<sup>3</sup> It must be said that, even though the Colombian Constitutional Court, through ruling C-239 of 1997, considered it as a new fundamental right, the right to die with dignity was only exercised for the first time on July 3, 2015, when citizen Ovidio González, who suffered from aggressive cancer, requested to be subjected to the euthanasia procedure.

Now, for some time, Lefebvre (1969) has argued that there are rights that are born, recognized, exercised or claimed from cities or urban environments. Following this line, cities contain a series of rights that are inherent to urban environments and that are necessary to dignify life in cities:

[...] the right, to freedom, to individualization in socialization, habitat and living. The right to the work (participating activity) and the right to appropriation (very different from the right to property) are intertwined in the right to the city. (Lefebvre, 1969, p. 159)

Likewise, these rights that are born or recognized in cities have been classified as urban rights and include tangible and intangible aspects. For example, the right to basic services, to urban facilities, to public spaces, to centrality, to environmental sustainability, to the urban and ecological structure, to the urban landscape, among others (Borja, 2013; Corti, 2015; Gnecco 2020a).

It is important to note that urban rights are a set of norms, prerogatives and powers exercised by any citizen by virtue of being, participating, staying or belonging to the city.

There are countless authors who, such as Borja (2013), Corti (2015), Gnecco (2020a), García (2021), García and Vidal (2019), Ugalde (2015), Marcuse (2010), have pointed out the existence of various rights to cities or urban contexts. To advance in the catalog of urban rights and their subsequent recognition, it is necessary to indicate a list of rights that are born, exercised or recognized in cities. This new category of rights is not exhaustive, but illustrative, and may have a place in contemporary legal systems, based on the emerging rights thesis.

Next, a series of emerging urban rights and the rationale behind their importance from the urban context are proposed.

## 5. EMERGING URBAN RIGHTS

The Institute of Human Rights of Catalonia has been publishing a catalog of emerging rights in response to a series of problems that afflict society in the 21st century. These rights are based on classical

traditional human rights and, in some cases, are an evolution, update, extension or challenge of these.

Regarding the issue of emerging urban rights, Corti (2015) has an extensive work that puts in context various elements that are part of cities or that integrate urban environments and their relationship with rights to cities. However, for extension issues, we will take the synthesis, analysis and justification that was made in the doctoral dissertation *The right to the city. The city towards the right* (Gnecco 2020a, pp. 117-207), on these rights to the key of the city. In particular, reference will be made to the constituent elements of the urban structure, public space, facilities, services and infrastructure, mobility, environment, participation, centrality, housing and urban landscape.

Cities are made up of a series of physical and territorial components that characterize, organize, shape and make them functional. Among these components, we can find: the urban structure, the layout, the fabric, the density, the construction capacity, the empty areas, the subdivision, the building type, the land uses and the genome (Corti, 2015). We have seen all these elements in the course of our lives. Some are centuries old, some others days old, and others evolve, transform or perhaps go unnoticed. The really important thing is that, without them, the city would be inanimate, uniform and tedious.

In turn, from the articulation of these components —represented on roads, public spaces, natural areas, construction actions, land specialization, etc.— depends, to a large extent, on the quality of life of citizens. In fact, as has already been said, the urban recommendations of the Sustainable Development Goal and the New Urban Agenda-Habitat III propose that the components that make up the city be planned and developed based on the principles of inclusion, resilience, sustainability, and security.

A city with a harmonious relationship between its main urban components is one that provides the exercise, recognition and development of rights to the city. A city with a good urban structure is one capable of generating greater satisfaction to human and non-human needs.

## 5.1. PUBLIC SPACE

Public space has many definitions, such as those established by Borja (2003)<sup>4</sup>. However, the interpretation that most interests this research is that of the urban approach, which defines it as that space in the city that is not part of buildings, through which private and public buildings are circulated and accessed, and in which develop commercial, religious, cultural, recreational, political activities and free access to citizens are carried out (Corti, 2015).

The goal is to produce quality public spaces throughout the city equally, regardless of the social class, the location of the neighborhood or the purchasing power of its residents. In this way, public space, as an integral element of rights to cities or as an urban right, must allow the gathering, inclusion, collective expression, urban diversity and enjoyment of the city, regardless of whether its production is private.

## 5.2. EQUIPMENT, INFRASTRUCTURE AND SERVICES

Equipment is known as “the endowments that communities understand as essential for the functioning of the social structure and whose coverage must be collectively guaranteed” (Hernández, 2000, p. 88). Among their main characteristics are: 1) they fulfill a social function; 2) they are intended for all persons as a collective property; and 3) they must be installed homogeneously throughout the city.

On the other hand, infrastructure is all the devices that provide functional and environmental support to urban activities, among which, those that serve to move merchandise, goods and people stand out, such as railways, highways, streets and roads (Corti, 2015).

For their part, services are those that require technological support and human assistance, in addition to the support provided by equipment and infrastructure, such as the provision of security services by the police or the collection, sweeping and cleaning of cities. It is important to say that the infrastructure, equipment and services overlap. All the aforementioned categories can be found in a land transport terminal or in an airport.

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<sup>4</sup> For Jordi Borja, public space is polysemic. It is a democratic and social place; it's the people; it is the representation of society.

In this way, rights to the city or urban rights are represented in services, equipment and infrastructure. Of course, as long as they are distributed equitably throughout the city, positively impact the quality of life of all citizens, cover the needs for which they were created, facilitate the gathering and representation of people, and allow the construction of citizenship and cities (Franco and Zabala, 2012).

### **5.3. MOBILITY AND TRANSPORTATION**

Current cities base their mobility on private cars, with large highways that connect regions, with airports and ports that facilitate trade, cultural exchange and reduce distances. In some developed countries there are even high-speed trains that compete with intermediate-distance flights. In this order of ideas, in contemporary cities, mobility creates an urban configuration through automobiles, which demands more space every day, at the sacrifice of other essential urban elements (Hall, 1996).

Currently, urban mobility is experiencing a paradigm shift, due to tensions between environmental impacts and modes of production and consumption. In fact, urban development is based on the car as a means of transport, a situation that generates urban dispersion or the non-city, according to Borja (2013), taking into account that it allows the daily connection between distant points and occupies a lot of land when saved and scrolled.

This encourages the expansion of the territory with low-density urbanizations, which can only be successful with the help of private cars, because public transport systems, due to fare issues, require high population densities to be profitable (Corti, 2015). In addition, the car causes other additional problems, such as the consumption of non-renewable resources and the emission of polluting gases, not to mention the amount of space occupied per person transported.

In this direction there is the discussion between the dispersed city, on the one hand, based on the suburb, in the urbanization without limits, the dominance of the law of the land market and the diffusion of the private car, which is reflected in the North American urban model, as explained by Castells (1976); and, on the other hand, in the compact, dense, concentrated city, with low occupation of the territory, which represents the European urbanization model (Corti, 2015).

The difference between these two models makes it clear that in many cities around the world the market ends up imposing urban development. For this reason, in cities like Bogotá it is evident how the lower class end up living at the ends of the city, away from centrality—in Lefebvre’s terminology—, in towns such as Bosa or Ciudad Bolívar or, at the worst cases, in the surrounding municipalities, such as Soacha or Madrid.

For the materialization of one of the components of the right to the city, such as sustainable mobility, compliance with the following recommendations is required (table 1).

**Table 1. Recommendations for sustainable mobility**

Elements	Description
Public transport networks of different scales	For the system to work efficiently, it is necessary to reduce as much as possible the transfers that users make to the system, for example, when leaving a neighborhood to reach a main road, so that very long travel times are avoided.
Spacious and safe stations	A system with comfortable, efficient and safe stations facilitates the passing from one means of transport to another, or transfers.
Plurality of options in the transport system	It allows to expand the connection possibilities and reduces the problems caused by situations such as strikes, accidents or external problems.
Everyday functionality	The system must be designed to mobilize those who carry out their daily activities: going to work, to study, shopping or to the doctor’s office.
Promotion of alternative means of transport	The use of bicycles and the implementation of cycle paths should be encouraged, as they are healthy and flexible transport.
Single and functional ticket	Users should have a single card to access the different means of transport, in addition to granting benefits such as subsidies for certain population groups.
Route sheets	It is important to have instruments, technical documents and multisectoral commissions that serve as roadmaps to advise, plan, direct and coordinate mobility with other activities within the city.
Transport using clean energy	Progress should be made in the use of clean and renewable energies by public transport, as in the case of London and Chile, which acquired fleets of 100% electric buses to comply with the commitments of the Paris Agreement.

Source: own elaboration based on Corti (2015).

All these measures make it possible to ease the problems of traffic, pollution, abuse of public space, absenteeism from work, dispersed urban growth, fragmentation of the territory, socio-spatial segregation, among others.

#### **5.4. ECOLOGY AND ENVIRONMENT**

At the regional or local level, environmentalists have campaigned for new forms of urban and regional planning, control of overdevelopment, public health measures, cultural and institutional changes, and have thus achieved, in many cities, significant victories in environmental matters (Castells, 1998).

In this way, ecology is related to activism, science and values. This shows the importance and influence it should have on different personal, family and professional activities. Consequently, urban planning cannot be the exception, especially when voracious consumption and the destruction of ecological biodiversity and natural resources becomes evident.

Faced with this situation, one begins to speak of the sustainable city. This is due to the marked global trends towards the urbanization of urban settlements and the recognition of the city as a key entity to achieve economic productivity, undertake environmental actions and ensure the well-being of the poorest sectors of the population.

It should also be said that the extension and dispersion of contemporary cities consume lands that are fertile, and the industrial or domestic waste of the metropolis is one of the causes of the pollution of seas and rivers. In this sense, environmentalists speak of the ecological footprint of the metropolis, that is, of the environmental impact caused by human demand for natural resources for urban development (Corti, 2015; Rogers, 2014).

However, Hamann (2014) considers that, among the possible strategies to promote the development of sustainable cities, are the following:

1. The respect for environmental systems: wetlands, reserves, forests, swamps, coastlines.
2. The use of alternative energy sources, in other words, clean and renewable energies, leaving aside the dependence on fossil fuels.

3. The creation of environmental accounting systems that allow efficient management of resources.
4. The promotion of means of transport with clean and renewable technologies, and the reduction of unnecessary trips.
5. The reduction, recycling and reuse of waste, promoting separation at the source.
6. Education in sustainable development (general public, politicians and public officials).
7. The use of architectural designs and construction models that reduce the need to consume energy for lighting, ventilation, etc.
8. The idea of co-responsibility among all sectors of citizens.
9. Access to information to all citizens and groups interested in participating in decision-making.

That said, the paradigm that the environmental is opposed to the economic is out of date. However, the challenge is to change the trend that still persists in the city of an urbanism that is only interested in economic benefit, without taking into account the destruction of natural resources, environmental pollution and quality of life standards.

In this sense, the rights to the city, in relation to the environment, must ensure that it is respectful of its natural environment. In other words, due to the fact that the city enhances its own life, has the capacity to regenerate itself, improves the quality of life of its citizens, adapts and resists untimely and drastic changes, strengthens its fiscal and economic capacity, and be efficient in managing all your resources.

## 5.5. HOUSING AND HABITAT

There are several types of housing, but the one that concerns this section is low-income housing, which corresponds to the popular sectors and aims to meet the residential demand of citizens who do not have the possibility of accessing decent housing due to market circumstances.

The institutional-state response has consisted of timid housing programs, the control of rent prices, the policy of improvement of habitat, the quotas of social interest housing in urban projects, the policies of

formalization of the properties and the housing subsidies (Corti, 2015). It is important to note that, in many cases, this has been problematic, since social interest housing programs, subsidies for home purchase and the promotion of popular neighborhoods can only work if they are carried out on very cheap land, generally without attributes, urban facilities or public services, and far from the city center. The result is slums, slums and ghettos in even worse condition than the original.

In this direction, the right to the city must guarantee not only quality social housing, but all the attributes of the city, namely: public services, infrastructure, equipment, amenities and public space. The provision of housing is a step towards obtaining political, economic and social rights by the poorest citizens. To achieve this, a series of citizen and social integration strategies are required, which must include, among other issues:

1. The use of urban land already occupied. In other words, build within city limits to avoid urban sprawl. This entails many advantages, such as location, equipment, access to public services, public space, attributes, formalized land, etc.
2. The improvement of existing houses, that is, reuse the houses or increase the stock. This situation allows reducing costs and promoting inclusion, appropriation and neighborhood identity.
3. Occupy the unemployed labor force in the development of the housing project.
4. Maintain established human and social networks.
5. The provision of urban facilities, the creation of streets and public space, which allow the integration of people and the connection of the neighborhood with the city.
6. The financing mechanisms, which can be savings, severance funds, valuation taxes, capital gains, subsidies, etc.
7. State, private and mixed management.
8. Ensure the functionality and appropriation of the neighborhood and its public spaces.
9. Manage a good architectural design and construction model.
10. Generate social housing for rent, which allows lowering the prices of the private market and giving an alternative to families in transitory situations.
11. Impose social or priority housing quotas for large-scale real estate projects.

Ultimately, housing just to meet quantitative objectives only generates the anti-city. Hence, the main objective of housing programs should be social and urban integration. In this sense, it is about making and providing cities, not just housing units, where the beneficiaries are families and people who require a house and not the construction sector entrepreneurs who dominate and speculate with the market (Borja, 2013).

## 5.6. THE URBAN LANDSCAPE

The quality of the urban landscape is, to a large extent, the result of the sum of good architectural interventions, together with the implementation of public policies. However, there are a number of problems that affect the quality of the urban landscape: short and tall buildings, heterogeneous morphology, breaking of stylistic codes, advertising excesses, installation of antennas, violation of urban regulations, among others.

On the other hand, the urban landscape fulfills an essential function in the construction of the legibility of cities. In other words, it is the way in which citizens and tourists understand their structure, their shape, and manage to locate themselves in them, establish their routes and, ultimately, their identity as city dwellers (Corti, 2015). As Lynch (2008) asserted, there is a mental image of cities that is part of the identity of citizens.

It is difficult to imagine a city like Bogotá without the eucalyptus and pine trees of the eastern parks and hills, or a city like Valledupar without its mango trees or without its beautiful flowered *Cañaguante* trees, which, in addition to environmental benefits (air purification, shade, air conditioning), generate a visual impact and allow people to know if it is summer or winter.

It is important to say that the trees of a city must promote the use of native species that make it possible to recover, maintain and strengthen the native vegetation and fauna of the place. In exceptional cases in desert areas, it is possible to use non-native species.

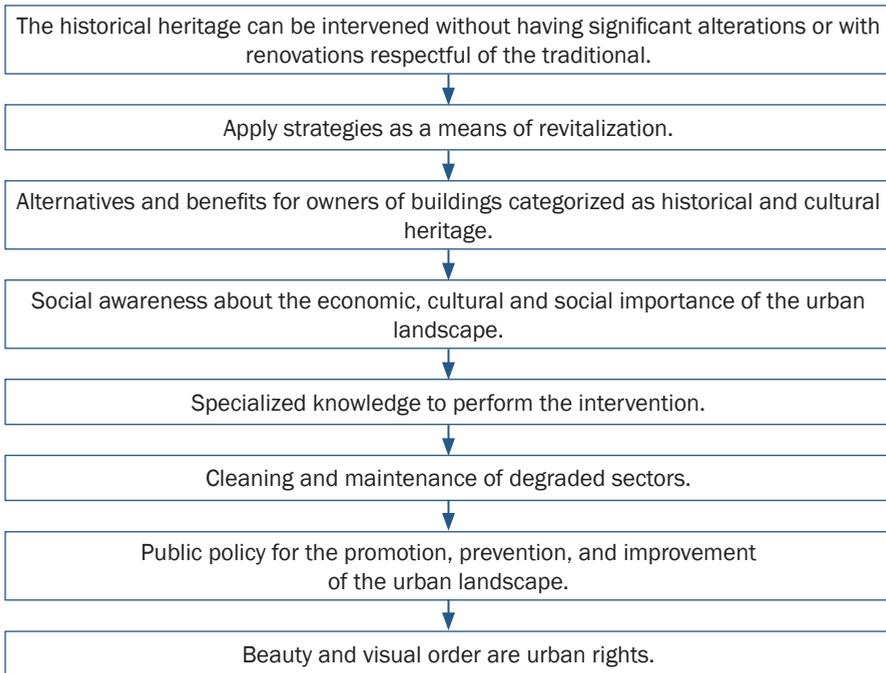
Another aspect to consider within the urban landscape is advertising, which, in many cases, considerably affects the other elements that make up the landscape. In contemporary cities, advertising plays an

important role, since it allows the use of posters, billboards, walls and even airspace to promote different types of marketing, despite the fact that the use of this type of advertising affects cities or areas of cities with architecture, morphology and traditional planning.

In this way, heritage preservation should be a priority in the urban landscape issue. That is, the stylistic continuities or the affinities of materials, design, forms, construction and technology, which is known as *historical heritage*. However, the vision and interpretation of what is defined as historical heritage must be comprehensive, to avoid situations of anachronisms, since a bad analysis can lead to paralyzing the development of sectors of the city or turning it into a banal scenography.

The destruction of the historical heritage of the city or its museification are radical abilities and with negative consequences. For this reason, Corti (2015) stated that the urban landscape, as an integral element of the right to the city, must take into account the following strategies (figure 1).

**Figure 1. Strategies to preserve the urban landscape**



Source: own elaboration taken from Gnecco (2020a, based on Corti 2015).

In certain administrations of Bogotá, degraded sectors of one of the main avenues, such as Calle-26 Street, considered as *garbage spaces* (Koolhaas, 2008), were transformed into an urban art gallery.

For this, graffiti artists, who have been constantly persecuted by the police, being considered criminals and vandals, were integrated into urban revitalization policies as artists of public space. This paradigm shift was based on two pillars of the right to the city that were raised by Lefebvre: centrality and appropriation.

Indeed, social groups such as Toxicómano, Caceroloart, Guache, DJ Lu, Lesivo, among many others, who were harassed and stigmatized by revanchism in the streets; they are now considered urban artists. Thus, they ended up participating, creating and giving life to garbage spaces throughout the city, thus promoting a new form of cultural expression that, in addition, has a content of social and political protest.

## 5.7. RIGHT TO PARTICIPATE

The city is the space where the duties and rights of the population are established. These are formed from three fundamental elements. In the first place, the *civitas*, as the place that builds a community of meaning, since it represents the right of the population to representation and identity. Then, the *urbs*, as the space differentiated from the rural, which represents the inclusion of the inhabitant in cities, because it is here where social rights are built. And finally, the *polis*, which is the space of democracy and participation, which seeks to represent the social group in the satisfaction of the social, political, economic and cultural rights of the population (Carrión, 2007).

The participation that is claimed is to *shape cities*, generally considered as revolutionary, utopian and opposed to the urban planning of contemporary cities (Corti, 2015). Breaking urban paradigms to propose other alternatives to neoliberal urbanization and globalization constitute an immense challenge (Brenner, 2013; Smith, 2001, 2005).

Hence, citizen participation in decision-making about cities is necessary. Therefore, it is imperative to carry out requests for information, public hearings, political controls, popular consultations,

participatory budgets, opinion polls and even to be elected to decision-making positions, etc. (Corti, 2015).

The city is the place to win rights. In this sense, the agora and the other public spaces that are part of the city are the places where people participate. *The Plaza de Bolívar, the Plaza de Mayo, the Bastille, the Plaza de Tahir, the Plaza de la Puerta del Sol*, are places where rights are claimed, demanded, protested, celebrated, and defended with or without violence, with happiness or sadness.

## 5.8. RIGHT TO CENTRALITY

There is an emerging urban law that has the paradox of having been raised by Lefebvre (1969) many years ago. In a right that had been forgotten, but, due to the current circumstances of COVID-19, it has emerged with great force. According to Uceda (2016), centrality is a fundamental concept in Lefebvre's works. This can be defined as:

The right of urban citizens and the groups that they constitute (on the basis of social relations) to appear in all networks and circuits of communication, information, exchanges. Which does not depend on an urban ideology, nor on an architectural intervention, but on an essential quality or property of the urban space: centrality. (Lefebvre, 1976, p. 18)

As recalled in Gnecco (2020a, pp. 71-72), the great French theorist (1972) further specified the category of "centrality" in his work *The Urban Revolution*: "Here the 'right to the city' becomes the right to centrality, not to be marginalized from the urban form" (p. 198). In terms of Lefebvre (1969), centrality is the place of meeting and exchanges, where citizens feel part of the city, where they relate, interact and participate in urban environments.

Not a simple right of visit, he says, to a tour of the streets of memory, to gawking at the gentrified old town, to enjoying the city from which one has been displaced for a day, but the right to participate in life in the city center, to be in the thick of the action. (Merrifield, 2011, p. 3)

This centrality, as a materiality of the urban fact, is what encourages daily life, integration and interaction, exchanges, playfulness, the usufruct of space by the community (use value). This allows the social mix of all areas and promotes the equitable distribution of all levels of services and activities (Gasic, Narváez and Quiroz, 2015).

*A contrary sensu*, in the centralities originated by the industrial, informational or functionalist city—in which only the generation of capital gains (exchange value) matters—it is where the city becomes a place of consumption or consumption of place. The language that is spoken is that of merchandise (Lefebvre, 1978), which ends up segregating and fragmenting the urban space between exclusive centers and marginalized, dominated, sterile and excluded peripheries (Gasic, Narváez and Quiroz, 2015; Uceda, 2016).

It is worth saying that the list presented is merely illustrative. There are countless rights, such as the right to basic income, appropriation, vital security, living, sustainable urban development, universal mobility, among others, which are considered as emerging urban rights (Institute of Humans Rights of Catalonia, 2004).

In Colombia, these emerging urban rights can be recognized in different ways: as unnamed rights, the result of the connection with express fundamental rights (elevation, derivation, or deduction) (Giorgio Pino, cited by Escobar, 2018, pp. 36-37), by interpretation and link with structuring values of the legal system, by the relationship with the principle of human dignity and, of course, as a consequence of the holistic interpretation of the entire constitutional text (Gnecco, 2020a, 2020b; Younes, 2019).

## 6. CONCLUSIONS

Emerging urban rights are those rights that are born, claimed or exercised in urban settings, but which, despite being in many cases made positive in the human rights protection system, have been forgotten or are not given the importance they deserve.

Likewise, they are new rights that are born, that emerge or are recognized due to changes in society caused by globalization, ethnic and religious conflicts, the technological revolution, neoliberalism, environmental degradation, nationalism and migration (Pareja and

Guillén, 2006; Institute of Human Rights of Catalonia, 2009). They can also be human or non-human rights that have expanded their content or ownership.

Generally, these emerging urban rights, as their name indicates, are claimed in the streets, in the city, *from below*, in vast mobilizations, by social groups, by young people, NGOs and academics who agree that traditional human rights do not give supply, since they have become rigid, mechanical norms that do not evolve.

In times of COVID-19 and generalized quarantines, the poorest die at home, on the street. In most of the poor sectors of the city there are no public services —water, basic sanitation, internet connection— nor equipment, infrastructure, nor social rule of law to face the crisis. The city does not guarantee rights or, in other words, there are no rights to the city.

City were militarized, evictions increased, and social protest is stigmatized. In short, the use and enjoyment of the city are prohibited. Rights to use the public space, the urban landscape, the urban structure, the healthy environment, the infrastructures and to participate or be in the centrality are being systematically violated and restricted. In the poorest sectors, none of these rights are even available.

While these emerging urban rights are claimed in the streets, traditional human rights remain static and do not respond to the urban emergency that has caused COVID-19. Specifically, classical human rights were overtaken by an urban systemic crisis. In this sense, they must be expanded, renewed, endowed with novel content, so that they protect oppressed people in desperate times.

The category of emerging urban rights can provide a response to urban crises. This review article is a step towards that line.

## REFERENCES

- Arango, R., y Lemaitre, C. (2002). *Jurisprudencia constitucional sobre el derecho al mínimo vital*. Uniandes. Centro de Investigaciones Sociojurídicas (CIJUS).
- Borja, J. (2013). *Revolución urbana y derechos ciudadanos*. Alianza Editorial.
- Borja, J. (2003). *La ciudad conquistada*. Alianza Editorial.
- Brenner, N. (2013). Tesis sobre la urbanización planetaria. *Revista Nueva Sociedad*, 243, 38–66. <https://bit.ly/3pYkWte>

- Carrión, F. (2007). El desafío político de gobernar la ciudad. *Nueva Sociedad*, 212, 36-54. <https://bit.ly/3EZ1zqj>
- Castells, M. (1976). *La Cuestión Urbana*. S. V. Editores, Ed.
- Castells, M. (1998). El reverdecimiento del yo: el movimiento ecologista. *La factoría*, 5, 135-158.
- Corti, M. (2015). *La Ciudad Posible*. Café de las Ciudades.
- Coto, P. y Solís, J. (2020). Territorios, bien común y derecho a la ciudad: propuestas de acción social en tiempos de crisis COVID-19. *Revista Rupturas*, 10, 83-94. <https://bit.ly/3F1LaS3>
- De Sousa Santos, B. (2020, 9 de abril). Al Sur de la cuarentena. *Página 12*. <https://bit.ly/3p6UJK1>
- Dizioli, A. y Pinheiro, R. (2020). Information and Inequality in the Time of a Pandemic. *Journal of Economic Dynamics and Control*, 130, 104202. <https://doi.org/10.1016/j.jedc.2021.104202>
- Du, J., King, R. y Chanchani, R. (2020, 14 de abril). Tackling Inequality in Cities is Essential for Fighting COVID-19. *World Resources Institute*. <https://bit.ly/3oXJWS8>
- Equipo de Trabajo sobre Desigualdades (HLCPP). (2020). *COVID-19, inequalities and building back better. Policy brief by the HLCPP inequalities task team*. United Nations. <https://bit.ly/3221YKn>
- Escobar, G. (2018). *Nuevos derechos y garantías de los derechos*. Marcial Pons.
- Franco, A., y Zabala, S. (2012). Los equipamientos urbanos como instrumentos para la construcción de ciudad y ciudadanía. *Dearq*, 11, 10-21.
- García, E. (2021). *El impacto del COVID-19 en el derecho a la ciudad. Perspectivas pospandémicas para reconstruir ciudades y asentamientos humanos mejores y más justos*. Global Platform for the Right to the City. <https://bit.ly/3p6W6bD>
- García, E. y Vidal, L. (eds.). (2019). *Ampliando derechos urbanos. Igualdad y diversidad en la ciudad*. CIDOB. <https://bit.ly/3DUSD3S>
- Gasic, I., Narváez, A. y Quiroz, R. (2015). *Reapropiaciones de Henri Lefebvre: Crítica, espacio y sociedad urbana*. Editorial Triángulo.
- Gnecco, C. (2020a). *El derecho a la ciudad. La ciudad hacia el derecho: una mirada desde las actuaciones urbanísticas de la Bogotá Humana* [tesis doctoral, Universidad Libre]. Repositorio institucional. <https://bit.ly/3yEO2C0>
- Gnecco, C. (2020b). O direito à cidade como um direito emergente e sem nome no sistema jurídico colombiano. *Redes*, 25(3), 1280-1301.
- Guirao-Goris, J. A., Olmedo, Á. y Ferrer, E. (2008). El artículo de revisión. *Revista iberoamericana de enfermería comunitaria*, 1(1), 1-25.
- Hamann, A. (2014). *Hacia Ciudades Sostenibles*. *Tiempo de Opinión*, 4-13.
- Hidalgo, M. (2017). *Las ciudades como objetivo de desarrollo sostenible*. ieee.es. Documento informativo. <https://bit.ly/3pZJfXF>
- Hall, P. (1996). *Ciudades del mañana*. Ediciones del Serbal.
- Hernández, A. (2000). *La ciudad estructurada. Seminario Calidad de vida urbana, variedad, cohesión y medio ambiente*. Ayuntamiento de Madrid.
- Hernández, R., Fernández, C. y Baptista, P. (2010). *Metodología de la investigación*. McGraw Hill.

- Instituto de Derechos Humanos de Cataluña. (2009). *Declaración Universal de Derechos Humanos Emergentes*. <https://bit.ly/3yy4ALR>
- Instituto de Derechos Humanos de Cataluña. (2004). *Carta de Derechos Humanos Emergentes*. <https://bit.ly/30x87xr>
- Koolhaas, R. (2008). *El espacio basura*. Gustavo Gili.
- Lefebvre, H. (1969). *El derecho a la ciudad*. Península.
- Lefebvre, H. (1976). *Espacio y Política*. Península.
- Lefebvre, H. (1972). *La revolución urbana*. Alianza Editorial.
- Lefebvre, H. (1978). El derecho a la ciudad. *Thesis Eleven*, 33.
- Lynch, K. (2008). *La imagen de la Ciudad*. Gustavo Gili, Ed.
- Marcuse, P. (2010). ¿Los derechos en las ciudades y el derecho a la ciudad? En A. Sugranyes y C. Mathivet (ed.), *Ciudades para tod@s. Por el derecho a la ciudad, propuestas y experiencias* (pp. 91-104). Hábitat Internacional Coalition.
- Merrifield, A. (2011). El derecho a la ciudad y más allá: notas sobre una reconceptualización lefebvriana. *Urban*, 2, 101-110.
- Mizutori, M. y Mohd, M. (2020, 15 de junio). Opinion: COVID-19 demonstrates urgent need for cities to prepare for pandemics. *ONU-Hábitat*. <https://tmsnr.rs/3m9GO3G>
- Naciones Unidas. (2018, 16 de mayo). Las ciudades seguirán creciendo, sobre todo en los países en desarrollo. *Noticias ONU*. <https://bit.ly/3s71GfT>
- Naredo, J. M. (2000). Sobre la insostenibilidad de las actuales conurbaciones y el modo de paliarla. *Gaceta Ecológica*, (55), 21-40.
- Orús, A. (2021, 17 de octubre). Número de personas fallecidas a consecuencia del coronavirus a nivel mundial a fecha de 17 de octubre de 2021. *Statista*. <https://bit.ly/328bmvs>
- Pareja, E. y Guillén, A. (2006). La Carta de Derechos Humanos Emergentes: una respuesta de la sociedad civil a los retos del XXI. En E. Pareja, A. Guillén, I. Larrinaga, Á. Boso, y M. Vancea, *Naturaleza y alcance de los Derechos Humanos Emergentes: la carta de derechos humanos emergentes y el derecho a la renta básica de ciudadanía* (pp. 4-34). Institut de Drets Humans de Catalunya. <https://bit.ly/32bgPlv>
- Rodríguez, M. (2014). El ecologismo como referente en la construcción del derecho al medio ambiente. En J. Saura y M. Rodríguez (eds.), *Derechos Emergentes: Desarrollo y Medio Ambiente* (pp. 45-66). Tirant lo Blanch.
- Rogers, R. (2014). *Ciudades para un pequeño planeta*. Gustavo Gili, Ed.
- Saura, J. (2014). Concepto y contenido de los Derechos Humanos Emergentes. En J. Saura y M. Rodríguez (eds.), *Derechos Emergentes: Desarrollo y Medio Ambiente* (pp. 17-42). Tirant lo Blanch.
- Smith, N. (2001). Nuevo Globalismo, nuevo urbanismo. *Documents D'anàlisi Geogràfica*, (38), 15-32.
- Smith, N. (2005). El redimensionamiento de las ciudades: la globalización y el urbanismo neoliberal. En D. Harvey, N. Smith (ed.). *Capital financiero, propiedad inmobiliaria y cultura* (pp. 59-78). Universitat Autònoma de Barcelona.
- Tantaleán, R. (2016). Tipología de las investigaciones jurídicas. *Derecho y Cambio Social*, (43), 1-37.

- Uceda, P. (2016). *La ciudad desequilibrada. El derecho a la ciudad en los barrios vulnerables de Madrid* [tesis doctoral, Universidad Complutense de Madrid]. Repositorio institucional. <https://bit.ly/32297Kh>
- Ugalde, V. (2015). Derecho a la ciudad, derechos en la ciudad. *Estudios demográficos y urbanos*, 30(3), 567-595. <https://bit.ly/3yyaNYb>
- Vanegas, G., Ballén, R., Daza, A., Ávila, V., Cadena, W., Matías, S., Gómez, B., Boccanegra, H., Peña, W. y Galeano, J. (2010). *Guía para la elaboración de proyectos de investigación*. Universidad Libre.
- Vera, F., Adler, V. y Uribe, M. C. (eds.). (2020). *¿Qué podemos hacer para responder al COVID-19 en la ciudad informal?* Red de Ciudades BID.
- Younes, D. (2019). *Derecho constitucional colombiano*. Legis.

