

# Conceptualizing the right to necessity and the right to space production: Insurgent versus legal rights in Planning contexts

The major problem with theories of the right to the city is that they inherently assume that states are the sole provider of rights and that, in liberal–democratic countries, legal rights are conceptually universal and apply to all individuals equally. I challenge these assumptions and maintain that in some situations, when the state and its governing apparatus violate or deny the very basic rights of a social or ethnic collective, the group itself becomes an alternative source of informal rights. I conceive this violation of basic needs as a necessity state of affairs, which constitutes a true and proper source of law and it makes the right to space production and the right to necessity. Thus, the state of necessity is the source of these informal rights and law, and necessity gives them the legitimation they need. The disadvantaged groups, the community, not the State, give it the legitimation they need. As Agamben suggests in his *State of Exception*, that necessity has no law and necessity creates its own law. From this perspective, the right to the production of space is a plane of contradictions and struggle over the distribution of resources and rights among people in general, and between the state and its local government and planning and development institutions in particular. Seen in this light, it is clear that the right to the production of space entails not only formal legal rights but also the informal rights, the right to necessity, generated and invoked by disadvantaged groups.

The production of space, then, is born and reborn at the heart of the contradictions between formal and informal rights, and between the state's planning apparatus and spatial agenda on the one hand and the status of disadvantaged groups on the other. The conceptual framework offered here seeks to resolve and overcome these contradictions through its contingent relations between legal rights, which are produced and distributed by the state, and the rights of necessity generated and invoked by the collective. From this perspective, the right to the production of space offers a normative framework for illuminating the relationship between the production of space, structure, and power relations at the state and city level and their relations with collective

groups, as well as a means of struggle for basic rights of recognition and of the reorganization of urban society