

The city as a mosaic: Law, otherness and dialectic perspective

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Abstract: The city, especially in a democratic postmodern framework, appears as a shared background where the interaction and sociopolitical, economic, cultural and symbolic relationships occur. Extrapolating the physical scope and the contextual composition, the city presents itself as a crucible of exchange, reactions, functionalization of their componential elements and, above all, the city is consolidated as a baseline of universal access to rights. The urban space therefore hosts the citizenship universalization, and needs to be observed and evaluated by the concept of plurality and diversity that form the town mosaic, always susceptible to changes in process, social actors dialogue, and multiple variables that are drawn by “dialectic of look” about the city. In this line, Law plays critical role – with their regulatory systems – in the dynamics of “networks of meaning” assimilation and in the perception of differences inherent to the complexity of the city. Accordingly, it is necessary to adopt a self-reflective and dialogic methodology able to translate reality – object of juridical regulation – with fidelity. The urban setting requires a systematic set of rules and representations erected not in the portrayal of a society artificially conceived as homogeneous, but in the heterogeneous, plural and pulsating conformation of social and symbolic manifestations immersed in urban space. The city as a locus of interaction and behavioral/discursive molding therefore allows degrees of learning accumulation to individual and collective formulation of social practices, constituting itself as a composition field of argumentative and symbolic forces related to many actors. All imbued with the need to build consensus, but guided by diversity and plurality that characterize the composition of a

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collective space regimented from individualities – sustained in everyday life of ordinary men, disseminated characters, innumerable walkers, according to Michel de Certeau. The adherence of the analysis of urban space to the “Anthropological Blues” assumptions in accordance with Roberto daMatta’s thesis and the Habermasian theoretical model extends the perception of discursiveness and communicative flows around its object. The paper seeks to analyze the city – as theoretical and qualitative research – using an anthropological perspective, the Habermasian discursive support and Pierre Bourdieu’s sociology, conceiving the urban space as a “field”, a space where actors have specific positions on referrals of symbolic dynamics. An interpretation of the city methodologically concerted requires an architecture of concepts and practices endowed with the plasticity able to provide the juridical redefinition of science as an instrument of intervention in reality.

Keywords: City; Law; Discursiveness.

1 Introduction

Uma cidade é imperativo
a um tempo humano e desumano.

Palácios presídios
asfalto cavernas
elevados e subterrâneos
teia de virtudes e crimes.

Uma cidade é sinfonia
com ásperas dissonâncias.
É um ser total de osso e carne,
tem nervos, músculos e sangue:
o sangue de seus habitantes
os nervos de seus habitantes
a própria força e fraqueza.

[...]

A expressão de uma cidade é múltipla.

A beleza de uma cidade é instável.

Uma cidade se assemelha às outras

Porém, se a amamos, é única.

(Henriqueta Lisboa)³

³ LISBOA, Henriqueta. Belo Horizonte – bem querer. Belo Horizonte: EDDAL, 1972.

Postmodernism⁴ is characterized by the remodeling of dominant scientific paradigm – traditionally guided by a rationality closed on its own epistemological limits.⁵ In this framework, new foundations to support the theory and the scientific practice are structured from the displacement of the Newtonian-cartesian paradigm, erected over causal relations and based on the maintenance of an orthodox methodological framework composed of pre-established formulas and assumptions, without accurate translation of reality.

In the midst of the postmodern debate, therefore, highlights the redefinition of scientific method and the redrawing of legal science itself, through understanding the “hypercomplexity of everyday life”⁶ and the conformation of a new Law, in turn directed to the replacement of the notion of “stability” for the “suitability”, due to their inability to satisfactorily respond by itself “to the demands of pluralism regulation, justification and understanding of social reality in all its density, extent and depth [...]”.⁷

The city, in this scope, object of analysis of this work, needs to be understood, in a scientific conception, as a *locus* for construction of social plot, permeated by the symbolic interactionism’s layouts – using Goffmanian⁸ reading – and by the behavioral and discursive molding that allows degrees of learning accumulation for individual and collective formulation of social practices.

The urban space, analyzed by postmodern democratic bias, is constituted as a composition field of argumentative and symbolic forces of various actors and as a shared backgrounds where the sociopolitical, economic, cultural and symbolic relationships happen.

The article defined as its central object the treatment of the city in

⁴ The text will adopt the concept of modernity proposed by Anthony Giddens who defines it as the style, life’s custom or social organization which emerged in Europe about the sixteenth century and that subsequently became worldwide known from the expansion of the model. GIDDENS, Anthony. **As consequências da modernidade**. Tradução Raul Fiker. São Paulo: UNESP, 1991.

⁵ SANTOS, Boaventura de Sousa. Um Discurso sobre as Ciências. Porto: Edições Afrontamento, 1988.

⁶ FAGÚNDEZ, Paulo Roney Ávila. O Direito e a Hipercomplexidade. São Paulo: LTr, 2003, p.15.

⁷ Own translation. PIRES, Maria Coeli Simões. Direito adquirido e ordem pública: segurança jurídica e transformação democrática. Belo Horizonte: Del Rey, 2005, p.2.

⁸ The article does not adopt Goffman’s subjectivist theory of action as a theoretical framework, but recognizes its relevance for the analysis of the proposed cut.

a perspective that goes beyond the physical and contextual composition scope, presenting itself as a crucible of exchange, reactions, functionalization of their componential elements and, above all, the city is consolidated as a baseline of universal access to rights.

The role played by Law in this way – permeated by their normative systems – is critical in the dynamics of assimilation of networks of meaning and of differences inherent to the complexity of the city, necessitating the adoption of a self-reflexive and dialogical methodology capable of translating with fidelity the reality object of juridical regulation.

The urban setting requires a systematic set of rules and representations erected not in the portrayal of a society artificially conceived as homogeneous, but in the heterogeneous, plural and pulsating conformation of social and symbolic manifestations immersed in urban space.

2. Urban Space: A Juridical-Dialogical Look

Caminha-se por vários dias entre árvores e pedras. Raramente o olhar se fixa numa coisa, e, quando isso acontece, ela é reconhecida pelo símbolo de outra coisa: a pegada na areia indica a passagem de um tigre; o pântano anuncia uma veia de água; a flor do hibisco, o fim do inverno. O resto é mudo e intercambiável – árvores e pedras são apenas aquilo que são (Ítalo Calvino).⁹

The city, especially in a democratic context, appears as a locus where the interaction and locking of sociopolitical, economic and cultural relations occur. Extrapolating the physical scope, the city presents itself as a space of material and symbolic exchanges, dialogic interaction and, especially, access to rights.

The urban space, in this way, needs to be observed and evaluated using as baseline the changes in process, the dialogue of the social actors and the multiple variables that are drawn by the dialectic of the looks on the space, analyzed from the perspective of the transversality of functional-democratic treatment given to cities and to the use of land, permeated by the debate about the main collective rights related to urban order.¹⁰

⁹ CALVINO, Ítalo. *As Cidades Invisíveis*. 2. Ed. São Paulo: Companhia da Letras, 2002, p. 8.

¹⁰ To Edésio Fernandes, this collective right includes “the right to urban planning, social housing rights, right to environmental protection, right to capture the urban capital gains

The contour lines of the city in Pierre Bourdieu's sociology can be understood as a "field" – the place occupied by actors in the dynamics of symbolic referrals – with cutouts of urban reality. In the "field", the "habitus" influences the interpretation of the urban space and its results and, therefore, the Law plays with their regulatory systems a fundamental role in the dynamics of assimilation of diversity and differences inherent to complexity of "urban".¹¹

The "habitus", defined by Bourdieu as a list of behaviors that shape the everyday social relations, causes inclination for dynamic learning, responsible for interpreting reality and allocation of the actors in the processes of social composition. The "habitus" and social dynamics are present in the construction of urban space and should tune the discourses of Law and Public Administration with the assimilation of networks of meaning, so that the city – with its collective facilities – effectively turn itself into a locus of citizenship and a "field" of democratic regimentation, given its social function, constitutionally established.

3 The city and the law: vocation and anthropological blues

Entre esses direitos em formação figura o direito à cidade (não à cidade arcaica, mas à vida urbana, à centralidade renovada, aos locais de encontro e de trocas, aos ritmos de vida e empregos do tempo que permitem o uso pleno e inteiro desses momentos e locais, etc.) (Henri Lefebvre).¹²

The postmodern model of rationality imposes the need for revising methods and epistemological bases – by overcoming addictions of language and behavior¹³ – so that the juridical regulation become able to promote the anthropophagic assimilation of elements from constitution-

and the right to regularization of consolidated informal settlements". FERNANDES, Edésio. A nova ordem jurídico-urbanística no Brasil. In: FERNANDES, Edésio; ALFONSIN, Betânia (Org.). Direito urbanístico: estudos brasileiros e internacionais. Belo Horizonte: Del Rey, 2006.

¹¹ The nonlinearity is an attribute of social relations processed within symbolic processes. BOURDIEU, Pierre. Questões de sociologia. Rio de Janeiro: Marco Zero, 1983, p. 90.

¹² LEFEBVRE, Henri. O direito à cidade. São Paulo: Centauro, 2010, p. 139.

¹³ COSTA, Mila Batista Leite Corrêa da; SENA, A. G. O. Whatever Works: Direito, Ciência e Hipercomplexidade. In: José Luiz Quadros de Magalhães; Juliano Napoleão Barros. (Org.). Direito e Cinema. Belo Horizonte: Arraes Editores, 2013, v. 1, p. 37-52.

al plot and of axiological variables immersed on democratic structure.¹⁴

The ecological transmodernity paradigm [...] implies the proposal of transformation of an entire model of culture, another conception of the political, of economic, of Law, of subjectivity and of desire, of word, of production of knowledge (science and epistemology), of aesthetics, of health, etc (own translation).¹⁵

In the analysis of cities, a new paradigm for Urban Law, therefore, requires management aiming constitutional effectiveness, use of a democratic and dialogic rationality, rescue of the “waratian” subjectivity and fundamental rights’ concreteness; needs to encompass instruments to ensure the right to good administration and to inclusive management to civilizing spaces, leaving the simulacrum¹⁶ of empty speeches to build an architecture of concepts and practices for sustainable development, based on social function of the city, on transparency, democratic participation and shared responsibilities.¹⁷

Along this line, new institutional and sociopolitical bases was inaugurated with the 1998 Brazilian Constitution, especially with regard

¹⁴ The regulatory system must be established by means of construction of mechanisms for dialogue with civil society, for the aeration of administrative system in the structuration of your prestacional or emancipatory profile, to ensure elementary conditions of existence to common citizen and also to recognize a myriad of public interests and multiple postmodern democratic desires inherent to hypercomplex societies.

¹⁵ Luis Alberto Warat invented the term “transmodernity” meaning, in a way, “dangers and discomforts that go by all the social, death of identity, a hyper-reality that makes the framework of simulated elements a much more sophisticated level of alienation [...] (own translation). In WARAT, Luis Alberto. *Territórios Desconhecidos: A Procura Surrealista pelos Lugares do Abandono do Sentido e da Reconstrução da Subjetividade*. Vol. 1. Florianópolis: Fundação Boiteaux, 2004, p.403.

¹⁶ SANTIAGO, Silviano. *O Entre-lugar do Discurso Latino-americano*. In: SANTIAGO, Silviano. *Uma Literatura nos Trópicos*. 2. ed. Rio de Janeiro: Rocco, 2000, p. 9-26.

¹⁷ The metropolis’ management, particularly in the context of Federations, demands “vertical and horizontal mechanisms, aimed to preserve the autonomy and effectiveness of federal cores of power remaining and at the same time, to adequate public regulation of territorial urban order” and the formulation of public policy (own translation). PIRES, Maria Coeli Simões. *Governança metropolitana em Minas Gerais e implementação do novo arranjo institucional de gestão*. Fórum de direito urbano e ambiental, Belo Horizonte, v. 7, n. 37, jan. 2008. Disponível em: <http://bdjur.stj.jus.br/dspace/handle/2011/31792>.

to the instruments of urban and regional planning,¹⁸ guided to a conception of governance committed with the diffusion of access to rights. The realization of the social functions of the city and guarantees of welfare was ensured by Brazilian Constitution, on art. 182, and regulated by the City Statute – Law nº. 10,257, of June 10, 2001.¹⁹

The concept of the social function of property was invigorated by the new legislative treatment; and new mechanisms of popular participation were conceived, the basis for the design of a democratic urban planning distant from technocratic practices that characterized the exception period. The City Statute was created – in this social and democratic setting – to establish general guidelines and tools for urban management, defining that “urban policy aims to order the full development of the social functions of the city”²⁰ by “ensuring the right to sustainable cities, understood as the right to urban land, housing, environmental sanitation, urban infrastructure, transportation and public services, work and leisure for present and future generations”.²¹

The Brazilian Constitution and the City Statute, in the sphere of

¹⁸ MONTE-MÓR, Roberto Luís de Melo. A questão urbana e o planejamento urbano-regional no Brasil contemporâneo. In: COSTA, Geraldo Magela; MENDONÇA, Jupira Gomes de. (orgs). Planejamento urbano no Brasil: trajetória, avanços e perspectivas. Belo Horizonte: C/Arte, 2008.

¹⁹ PIRES, Maria Coeli Simões. A função social no direito urbanístico e na política urbana: uma nova ordem de sustentabilidade das cidades. In: PEREIRA, Flávio Henrique Unes; DIAS, Maria Tereza Fonseca (Org.). Cidadania e Inclusão Social: Estudos em Homenagem à Professora Miracy Barbosa de Sousa Gustin. Belo Horizonte: Fórum, 2008, p.377-405. To assess the significance of urban planning in a broader dimension, understood as a social right, as proposed by the Urban Reform, presented in 182 and 183 articles of Brazilian Constitution and in City Statute, see COSTA, Márcia H. Batista C. As políticas urbanas e o exercício de uma nova esfera pública na gestão das cidades. In: MONTÚFAR, Marco Córdova. (Org.). Lo urbano en su complejidad. Una lectura desde América Latina. Quito: Flacso, 2008.

²⁰ Own translation. Art. 2º. BRASIL. Estatuto da Cidade. Lei n. 10.257, de 10 de julho de 2001. Regulamenta os arts. 182 e 183 da Constituição Federal, estabelece diretrizes gerais da política urbana e dá outras providências. Diário Oficial da União, Brasília, 11 jul. 2001. Disponível em: http://www.planalto.gov.br/ccivil_03/leis/LEIS_2001/L10257.htm. Acesso em: 4 mar. 2010.

²¹ Own translation. Art. 2º. BRASIL. Estatuto da Cidade. Lei n. 10.257, de 10 de julho de 2001. Regulamenta os arts. 182 e 183 da Constituição Federal, estabelece diretrizes gerais da política urbana e dá outras providências. Diário Oficial da União, Brasília, 11 jul. 2001. Disponível em: http://www.planalto.gov.br/ccivil_03/leis/LEIS_2001/L10257.htm. Acesso em: 4 mar. 2010.

planning and management of urban space, are important components of an advanced legal-urban framework for achieving the full access to urban facilities, as mentioned in the State of Minas Gerais' Constitution,²² and a "new urbanism , of the healthy cities".²³ Consequently, the city juridically concerted, designed over the mentioned regulatory requirements, depends on proactive behavior of Public Administration and Law itself, in order to enable strategies of insertion and intervention in "urban", supported on "the perspective of collective and democratic building of a shared management between government, societal and private sector actors".²⁴

The new regulatory framework, as a means of enforcing rights, plays a key role in the urban design process because it has the power to break with perverse links between planning, rigid management and one-dimensional urban development. The postmodern urban regulations must assume a systematic set of representations and norms erected not in the portrayal of a society artificially conceived as homogeneous, but in the heterogeneous, plural and pulsating conformation of social and symbolic manifestations that compose the space: "[...] people are equal before the law but they have different needs, capacities and desires".²⁵

In addition, it is urgent the incorporation, especially by urban juridical methodology, of what is most extraordinary, more human and less uneventful in the city analysis: the look of otherness – "Anthropological Blues" – that recognize the other beyond the rigid antagonism I/ other, civilized/barbarian, questioning the intellectual space of Law and incorporating "in the own field of official routines [...] those extraordinary ways, always ready to emerge in every human relationship [...]"²⁶

²² Constituição do Estado de Minas Gerais. 1989. Minas Gerais (Diário do Legislativo), Belo Horizonte, 22 set. 1989. Disponível em: <http://www.almg.gov.br/consulte/legislacao/completa/completa.html?tipo=CON&num=1989&comp=&ano=1989>. Acesso em: 4 mar.2012.

²³ FREITAS, Juarez. Sustentabilidade: Direito ao Futuro. Belo Horizonte: Forum, 2011, p.38.

²⁴ Own translation. PIRES, Maria Coeli Simões. Governança metropolitana em Minas Gerais e implementação do novo arranjo institucional de gestão. Fórum de direito urbano e ambiental, Belo Horizonte, v. 7, n. 37, jan. 2008. Disponível em: <http://bdjur.stj.jus.br/dspace/handle/2011/31792>. Acesso em: 4 abr. 2012, p.3.

²⁵ Own translation. SEN, Amartya. A Idéia de Justiça. São Paulo: Cia das Letras, 2011.

²⁶ Own translation. DaMATTA, Roberto. O Ofício de Etnólogo ou Como Ter 'Anthropological Blues'. In NUNES, Edson O. (Organizador). A Aventura Sociológica: Objetividade, Paixão e Improviso e Método na Pesquisa Social. Rio de Janeiro: Zahar, 1978,

Hades: the Platonic cave, the contemporary metropolis where the eyes “look without seeing.” [...] the progress and the modernity require the “dialectic of look” that is the transformation of mourning into playful, because only the look that improves itself according your objects of contemplation makes men better.²⁷

The guarantee of the right to the city by juridical and methodological otherness empties the proposal of “company-town”,²⁸ commodified, guided by managerial or operational logic, marking the need for consolidation of basic rights starting from consolidated scopes of property functionalized, social-environmental sustainability of the urban space and systematic and principled interpretation of new legal frameworks.

4. Conclusion

Urban space hosts the universalization of citizenship and it needs to be observed and evaluated by the nuances of plurality and diversity that compose the mosaic of the city – mixed of subjectivity – always susceptible to the changes in process, to the dialogue of the social actors and to the multiple variables that are drawn by the dialectic of looks over the city.

The regulation of the city is usually dictated by arrogance. It is necessary to respect the languages; and to read between the lines of a pluralistic order. The pragmatic challenge is to overcome the traditional technicist normative model to achieve a democratic planning, management and control of the city: a reading constitutionally proper of all normative basis needs to endorse solutions that communicate with the multiple dimensions of urban system and public policy.

The logic of production and consumption in the cities and the space and urban infrastructure’s commodification, marked especially by center-periphery segregation, need to be rethought and receive new meanings in the light of a multidimensional perspective and the “Anthropological blues”. This civilizing level, beyond the legal and business

p.27-28.

²⁷ BUCK-MORSS, Susan. *Dialética do Olhar: Walter Benjamin e o Projeto das Passagens*. Belo Horizonte: Editora UFMG, 2002, contracapa.

²⁸ VAINER, Carlos. *Pátria, Empresa e Mercadoria. Notas sobre a Estratégia Discursiva do Planejamento Estratégico Urbano*. In: MARICATO, Ermínia; Vainer, Carlos; Arantes, Otilia. *A Cidade do Pensamento Único: Desmanchando Consensos*. Petrópolis: Vozes, 2000, p. 75-103.

plan, will be built from the dialectic of the look; the one that sees, not blind, as in Plato's conception.

The city and urban, in a postmodern conception, therefore, must be understood within the scope of economic, social, political and cultural global processes that reshape urban space – and influence the times, spaces, reinterpretations of social relations and transformations of everyday life. The city became, at the same time, the place and the means, theater and arena of these complex interactions.

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