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The city as a common good: ideas e ideals

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ABSTRACT
The contemporary urbanization process in Brazil is directly related to the dynamics of the capitalist production mode. In this production mode the urban land, as well as habitation, become commodities – individual or collective consumer goods. With the increase in municipal autonomy back in the 1990s, along with the approval of the Statue of Cities in 2001, new tools for organization of urban territory and production of habitations were created. This work makes a brief analysis of the right to city's trajectory, since the creation of such concept by Henri Lefebvre in the 1960s, until the concept's appropriation by Brazilian legislation. Through bibliographical review, it relates the social role of property as means to grant the right to the city.

KEYWORDS: Right to the city. Property's social role. Statute of the City.

1 INTRODUCTION

In the year of 2021, the Statute of the City reaches 20 years of its approval. In this context, it is important to remember facts and struggles that happened throughout Brazilian history and revisit ideas and authors that offered clarity and conceptual support to the then-public policies for the right to the city's concretization. In such scenario, the Statute of the City translates into the instrument of fight for urban reform that gave urbanistic-legal support to the new development plans conducted post-constitution, aiming to concretize ideas and ideals of the right to city.

The right to city is an always up-to-date topic, and necessary while facing data which confirm that the world's population, especially the Brazilian population is more urbanized as time passes. While in the 1940s, 73,7% of the country's population was in the rural areas, while circa 1996, 78,3% already lived in urban areas (MARICATO, 2015), and UN's preview for 2030 is that 90% of the Brazilian population will live in urban areas[1]. According to the last IBGE census (2010), the rate of Brazilian urbanization is of 84,36%. The result of an urbanization process through a "low-wagered industrialization"[2] resulted in a conglobate, limited real estate Market, where few people can purchase housing in the legal, private Market, resulting into socio spatial inequality.

The current production of Brazilian cities is directly related to the way of life of a capitalist society, which produces and reproduces urban space, reflecting onto the geographical space the inequality inherent to such mode of production. In this context, urban land and habitation itself not only come to have use value, but also exchange value – the result of the interests of those who produce urban land – and they begin being treated as commodities of great financial value.

With the promulgation of the Constitution of 1988, the increase in municipal autonomy in the 1990s, as well as the approval of the Statute of the City in 2001, new tools for the organization of urban land and production of habitations. However, the urban reform, strongly reclaimed by urban social movements during the process of national re-democratization, marked by the National Constituent Assembly of 1988, defended a better sharing of private property, according to Gonçalves (2019, p.190), but it reflected little upon other means of

[1] https://news.un.org/pt/story/2016/10/1566241-mais-de-90-da-populacao-brasileira-vivera-em-cidades-em-2030
[2] MARICATO, E. Favelas: um universo gigantesco e desconhecido. São Paulo, Laboratório de habitação e assentamentos humanos / FAU USP, 2001. Avaliable at: http://www.fau.usp.br/depprojeto/labhab/biblioteca/textos/maricato_favelas.pdf

decent housing and, until now, "the landlord keeps being the knot in the Brazilian urban matter"[3]. Great part of the urban population has trouble in having access to the city and having decent housing: high urban land cost, obstacles to accessing financing, and low wagers. Such adversities have an even greater cost for the poorer population, which begins occupying land through irregular means, seeing itself in situation of vulnerability and illegality (MELLO e BEZERRA, 2019).

The land issue (regarding access to urban land) is one of the main deadlocks for access to cities. In the same moment where one can see people needing housing, or going through commuting for hours to arrive at their workplaces (in non-paid hours), it can also be perceived that there is a large number of urban empties, breaching its social role by generating discontinuity in the urban fabric, increasing infrastructural and urban transportation costs and, without offering compensation to society, while increasing its value, generating profit to its owners and making the consolidation of cities as a common good more difficult.

One of the main forms of growth of urban fabric is the incorporation of rural land areas to the city (formal or informal allotments). According to Singer (1979), at the moment when the urban land receives improvements, such as infrastructure building, it increases in value. Adding to it, location is a primordial condition to define the price of land: considering that terrains with the same improvements, but in different locations, will have different prices. Each spot of urban space is unique – in the sense of offering certain advantages that have influence in its cost. Enterprises can have increased profit, according to their more strategical locations. According to the author, the use of the land is regulated by the market, and its price is determined by demand (areas that are more often sought and are of greater interest by the advantages offered are more expensive). As the demand of urban land changes constantly and, thus, its price being subject to fluctuations, especially due to public investments such as infrastructure improvements.

Another model of uneven capital appreciation of urban land, according to Singer (1979), happens as cities grow, secondary service centers appear, resulting in a restructuration of urban space. These centers can coexist, forming two or more price gradients in a city's land, or the "old" center can become a place for "inferior" activities from the society's point of view, implicating in relocation of high-standard houses to more distant places. According to the author, the matter is that the buildings that are abandoned by the richer strata in more central regions are not reused by groups with lower income. The capitalist city does not have na intermediate demand for the rational reutilization of investments. The new downtown dwellers have no conditions of paying for high housing prices, thus, the maintenance of buildings is neglected by its owners, suffering deterioration, situation that happens in several urban centers, especially in big cities.

Another valuation dynamic presented by Singer (1979) is real estate speculation, especially that generated when the State places infrastructural services in a certain area, directly influencing on area demand for said location. In this context, increase in value is immediate and it can increase value of old dwellers' properties, but without public policies it can cause

[3] The author refers to: MARICATO, E. A terra é um nó na sociedade brasileira ... também nas cidades. **Revista Cultura**, v. 93, n. 2003, p. 07–22, 1999.

gentrification, and new inhabitants will pay a much bigger price for the same location, due to public investment.

It is evidenced, by speculation dynamics, that State actions are enjoyed much more by incorporators and real estate agents. Such dynamics are also common in new urbanization areas, in which people who make the first moves, acquiring land in future areas of expansion, receive the benefits of urban services implementation. Due to that, there is a common practice of incorporators to choose distant lands for new allotments, and selling those at more accessible prices to the worker class, such as through financing and subsidies. The speculation dynamics, in this case, consolidates itself with the formation of interstitial empty spaces, between new distant allotments and more central areas, and they will increase in value as urban services and the occupation dynamics itself arrives to adjacent allotments. According to Singer (1979), these intermediate areas waiting for value increase, house urban services that are being underutilized (or even rendered useless), while a big part of the urban population lives in precarious conditions, in slums or worker's villages, with a lack or scarcity of services such as urban transportation and sanitation.

Such dynamics must be remembered and debated while seeking for understanding of the right to city, as a common right, in a balanced and equitable way in the land. The city is a space in constant movement, which amplifies according to the speed of real estate capital investments, highlighting inequalities of access to housing and other urbanization opportunities.

This article brings contributions to debates and reflexions regarding the social role of urban land and right to city, in a wider manner, in order to expose the importance of such subjects in a conceptual, technical debate.

2 OBJECTIVES

The article portrays the analysis of different authors regarding the right to city, highlighting the social role of city and urban property as a mean through which the access to city as a common good and a legitimate citizen's right can be granted.

3 METHODOLOGY

It is a bibliographical revisiting to classic authors and analysis, product of a mixed approach, based on a qualitative method of investigation. It possesses descriptive, exploratory and analytical characteristics.

4 RESULTS

From the initial concept of the right to city, connections between ideas were established, principles and regulations that have transformed the urban politics in Brazil, allowing for the access to urban space to become recognized as everyone's right.

The following items point said connections in chronological order, but in an integrated form as to contribute, through succinct explanations, with the understanding of complex and dynamic principles.

4.1 THE RIGHT TO CITY

The concept of right to city has appeared in Paris, idealized by Henri Lefebvre by the end of the 1960s[4] in a context of clash of discussions in universities and popular manifestations – the origin of the concept has a "theoretical-conceptual and a practical-claiming facet"[5]. The author supposes that the process of urbanization shouldn't be summarized as a simple sub-product of industrialization – besides urbanization preceding industrialization itself, it would have detached from industry and disseminated in a generalized form in modern times. Lefebvre defended that everyone had the right to live urban centrality – according to its use value – existing, thus, the need to detach from the capitalist logic of urban space.

> [...] to urban life, to the renewed centrality, to the meeting and exchange spots, to the rhythms of life and uses of time that allow the whole and entire use of such moments and places etc. [...]. The proclamation and realization of urban life as reign of use (of Exchange and meeting separate from exchange value) demand the domination of the economics (of exchange value, of market and commodity) [...] (Lefebvre, [1968] 2008, p. 139).

That way, the right to city idealized by Lefebvre served as the starting point and reference for theoretical discussions that came next. In the beginning of the 1970s, Manuel Castells in "the urban question" follows a less "utopic" and "revolutionary" line. According to Gomes (2018), the author emphasizes the matters of urban practices related to the achievement of social rights as a way to grant citizenship. From this perspective, the intention is the claiming of minimal standards for decent urban living and, in such pursuit, an amplification of social consciousness. The author states that Castells agrees with Lefebvre, in the sense that urban development is only possible through political practices, however, she states that such practices have the State as center and object, necessarily.

That way, Castells understands urbanization through reproduction of workforce, the struggle of social movements for housing goes to the center and opens a specific study path (GOMES, 2018).

4.2 RIGHT TO CITY IN THE BRAZILIAN FEDERAL CONSTITUTION

According to Tavolari (2016), the concept of right to city arrives in Brazil during the military dictatorship period, where questions regarding law, justice and democracy were in the spotlight, having an even greater social importance. That way, the confluence between the notion of Lefevbre's right to city and Castell's idea of access to public apparatuses resulted in a

[4] In 1968, Lefebvre published "Le Droit à la ville", translated in Brazil right after, in 1969 titled "O Direito à Cidade".
[5] TAVOLARI, B. Direito à cidade: Uma trajetória conceitual. Novos Estudos CEBRAP, v. 35, n. 1, p. 92–109, 2016

combination that was widely accepted in the Brazilian context – the popular movements took hold of such concept to claim social rights, such as housing and transportation, for example. The author states that the language of laws is very relevant for Brazilian social movements, being the reason why the almost immediate association of the terms “right to city” and “citizenship”. Besides that, the criticism to technocracy was strong during the military dictatorship period, where popular participation was denied. The denial to rights was very present in the vocabulary of popular claims. In Brazil, according to the author, there was no intention of defining, in a systematic way, the concept of right to city. The term was used, mainly, as a way to unify different demands, for rights and urban services, along with the notion of citizenship and democracy:

> It is much more na attempt to organize fragmented struggles into a common denominator, to amplify specific agendas to a broader context with non-immediate political objectives to give meaning to the appropriation of spaces in the cities and the fights for rights, in an attempt to translate changes into the political culture of urban social movements. (TAVOLARI, 2016, p. 102)

At the brink of the National Constituent Assembly, by the end of the 1980s, Ermínia Maricato (1985) draws attention to the political conjuncture, during the re-democratization period, being an important moment for the popular movements of urban struggling to organize themselves. The author begins defending the importance of thinking about the right to land so that the consciousness of right to city could be developed, thus qualifying the popular claims. Differently from the debate for the right to land, the right to city had a more general characteristic, thinking about the uneven process of urbanization in Brazil. It was understood that the search for right to citizenship and decent living in cities was necessary.

> The suburbs are the exile, the anti-urban. Citizenship deems right not only to land, but to city, with its way of life, its improvements, job opportunities, leisure and political organization. Urban land, in this stream of thought, means urbanized land. (MARICATO, 1985, P. 408)

The National Constituent Assembly results in the Federal Constitution of 1988, and its articles 182 and 183, related to urban policies, presented for the first time in the Brazilian constitutional history. According to article 182’s preamble, the goal of urban development policies is to ordain the thorough development of social role of a city and grant well-being to the citizens.

The term right to city is not mentioned in a direct form in the constitutional text, but the concept of the social role of a city is introduced, and it retakes the social role of property as means to promote urban land ordination, in order to improve its inhabitants’ quality of life, granting access to housing and the city. (GONÇALVES, 2019).

Moura (2017) talks about the constitutionalization of right to city, to clarify this path of urban policies in Brazil:

> The Right to the City, whose discipline in previous Constitutions was timid and the lack of a Statute, code, consolidation or infra-constitutional which conformed its contents, tracing an urban policy or organization of the usable spaces did not imbue the current constitutional norms with efficacy. Within such bias, the Federal Constitution of 1988 instituted beside subsystems such as Financial and Tributary Constitutions, the fundamental legal regime of the Right to the City by fixing competence of the federative entities, procedural norms, urban policies, principles and guidelines, as well as correlated fundamental rights. (MOURA, 2017, p.534)

The Constitution of 1988 binding to the development plans is highlighted, as is the need for regulation of legal-urbanistic instruments for the effectivity of urban policies at local level.

4.3 THE STATUTE OF THE CITY - REGULATION OF THE RIGHT TO CITY IN BRAZIL

In Brazil, according to Saule Junior (2019), the right to city proceeds from urban rights which, in turn, have their conception based in human rights – these having being references in the political pact conducted since the Constituent. According to the author, the urban rights were reference in the struggles for urban reforms that happened in several states and cities during the conception of state constitutions, organic laws and development plans during the 1990s, contributing to the idea of right to the city during the composition of the Statute of the Cities.

Following the promulgation of the Constitution, the National Movement for Urban Reform (NMUR) began demanding that the constitutional devices for granting the aforementioned constitutional rights were regulated. From that academic movement and others, as well as movements from professional entities, a law Project for the Statute of the City (PL n° 181/89) emerges as a result, and it suffered great reprisal from sectors linked to capital, such as land owners and civil construction tycoons, as well as the Catholic Church's most conservative sect. The later elaborated a document titled "TFP against the socialist and confiscatory urban reform – Statute of the City"[6]. Such segment affirmed that the law Project went against the natural order consecrated by the Church's social indoctrination and established in Brazilian society, being these private property and free initiative (GOMES, 2018).

Given the conjuncture of the conflict of interests, the Statute of the City was presented in the Senate floor in 1989, and approved only in 2001, having needed wide negotiation between the sectors linked to the NMUR and those related to capitalist interests, generating mischaracterizations in the original law proposals: according to Gomes (2018), the concept of property's social role was removed, and the institution of the law regarding the abuse of property right – despite some claims of the NMUR having not being attended, 84% of the demands were accepted, considering the law edited.

[6] Original document, p. 5, cf. Bassul (2005, p. 114).

> By effect, the process of constitutionalization of the Law of the City does not end with the mere preview of the obligations and behaviors to be observed in public and private relations of urbanistic characteristic, bringing effectivity to the constitutional norms and conforming the urban reality. (MOURA, 2017, p.539)

In the definition of urban rights, discussed during the Constituent of 1988, the State was given the responsibility to ensure housing, public transportation, sanitation, as well as environmental and cultural patrimony protection, and democratic management of cities. The right to the city is related to the improvement in quality of life - article 6th of the Federal Constitution and Amendments n.26/2000 and n.90/2015. And, specified in articles182 and 183 (of the Federal Constitution), regarding urban policies. In the Statute of the Cities (Law n°10.257/2001), the right to city is described and regulated in article 2nd, items I and II, which dispose about the right to sustainable cities. The right to sustainable cities is referred as "the right to urban land, housing, environmental sanitation, urban infrastructure, transportation and public services, work and leisure, for the present and future generations" [7].

It is known that the urban production environment happens within the capitalist way of life and, thus, the urban land follows the same market logic. However, the right to access to city, granted by the constitution, clashes with the right to property. The use of urban land as means to enrichment is conflicting with the effectivity of the right to city.

> [...] The city business management, public services concessions and the difficulty of popular participation in the great urban projects show that the principles of urban reform were put into check and that the concept of right to the city became, before anything else, a rhetorical argument. The social aspect of urban reform was exchanged by initiatives turned towards market interests, and a punctual and fragmented management of the urban question (GONÇALVES, 2019, p.190)

That way, it is found that the right to city can create contradictions, "the same right can be summoned for defending clashing interests" (GOMES, 2018, p.497). Based on such, "legal contours" were defined in order to combine the activity of private capital along with obligations benefitting the collective. As the main example we have the "social role of property", dictating that private property does not have the end itself, but must have a goal towards development of society (BATTAUS e OLIVEIRA, 2016, p. 94).

In this sense, according to Saule Junior (2019), the social role of property has as goal to grant decent urban living conditions: relating right to property to the social interest for the use of urban properties.

4.4 THE RIGHT TO PROPERTY AND ITS SOCIAL ROLE

[7] (BRASIL,2001)

It is in the Constitution of 1988 that the expression "social role of property" is consolidated[8]. According to Pereira (2021), the incorporation of such concept modifies the nature of right to property, that is not seen as an individual right anymore: besides rights over urban land, there also exist obligations related to collective interest. In that sense, the "Federal Constitution of 1988 and the Statute of the Cities modified the scale considered for complying with the principle of the cities' social role" (PEREIRA, 2021, p.11). The city becomes the object to be regulated. The urbanistic laws regulate the use of the city, so that then the social role of property can be accomplished. Pereira (2021) affirms that the right to property in operation is individualistic and, as such, allows that certain individuals (owners) are able to exclude from the "use, usage and disposition" of something, in this case the urban land.

"As a right in itself, property configures as absolute and *erga omnes*[9], however, the way such right is exerted finds social barriers bound to the collective well-being. Such questions try being systematized through the lenses of the social role of property" (ACYPRESTE e COSTA, 2019, p. 259). To summarize, the right to urban property is granted as long as its social role is being executed. It is the urbanistic law, especially at municipal scale, which determines if property is in accordance to its social role.

Urban property has a fundamental role in the structuring of cities – just as a city is a collective good. Reinforcing such idea, Moroso et al (2019) clarify that the access to urban land is essential for social reproduction and thus, its distribution should not follow the logic of free Market, but being in accordance to the principles of social justice. The city is a common good, must be at the service of everyone, and the collectivity, in order to promote quality of life and social protection to everyone. For the authors, the "social role is a disputed conception, it is Always relational, involving what is understood as common [...]" (p.451).

Acypreste and Costa (2019) confirm in their work that, despite all movements of fight for access to the city being legitimated by part of the state right, they are constantly violated by the Market and the State. "The 'concessive right to housing' demonstrates that property, at least the one of urban characteristics, is restricted to an individualist reasoning, whose fundamental right to property unfolds in an absolute manner" (ACYPRESTE e COSTA, 2019, p. 263). In their research, they make an analysis of "repossession decisions against the Movement of the Homeless Workers, since the publishing of the Statute of City, in 2001, until 2014" from an evaluation of 32 first-instance lawsuits, seeking to "understand how the Judiciary Branch, while a power of the State, analyzes the urban landowning conflicts for housing performed by the Movement of the Homeless Workers" and, with that, arrived to the following conclusion:

> The tonic of the research's discoveries is defined in a passage of the lawsuit PE 2005 0004: 'on the contrary, it is deemed to this Branch [Judiciary], to grant the inviolability of right to property'. According to raised data, the protection of property is the main element of

[8] The expression "social role of property" appears for the first time in the Constitution of 1967 (PEREIRA, 2021).

[9] "Which has effect or works for everyone (it is said of the legal act)". Source: https://languages.oup.com/.

> repossession actions that were analyzed (ACYPRESTE e COSTA, 2019, p. 263).

In this study, it was perceived that absolute property is prioritized in prejudice to the constitutional principles of right to housing and social role of property. The processes analyzed show inability to deal with the complexity of the conflicts at hand, "be it because they don't work constitutional topics of right to housing and social role of property, be it because there are no significant attempts by the magistrates to use alternative and more efficient ways to solve such problems" (ACYPRESTE e COSTA, 2019, p. 263). An abandonment of the subject regarding social interest and the social role of property can be perceived, and such benefits private land owners.

> In decisions, the right to property is protected within its formal and abstract sense, not being allowed, in the concrete case, its violation and, from the magistrates' point of view, the consequent violation to the Democratic State (ACYPRESTE e COSTA, 2019, p. 263).

In this sense, Pereira (2021, p. 16-18) reminds us that the meaning of right to property is dynamic, and follows the social changes. The use of urban land must allow conditions of survival. The author links the path of the concept of right to property as a utopia to be socially constructed, aiming towards the "common right to build the use to land" – being, thus, a "denial" of the right to property, given that the common is antagonistic to the private and, being a common good, not deemed of appropriation.

The organized urban social movements present themselves as a way of resistance, seeking the effectivity of the right to city, making it so that the "social role of property" be a tool, thus making access to city effective – a common good for everyone. Moroso et al (2019, p.451) defend that "the opposition between private property and state property should be progressively replaced by common right regimes, especially regarding land and urban land [...] which can be considered common goods essential to life". The application of public policies that actually exert the social role of property through regulation of urban land is necessary – promoting social justice, going against mercantilist logic. In this aspect, it is vital that the Statute of the City's instruments are applied in Brazilian cities.

4.5 TOOLS FOR THE EFFECTUATION OF THE SOCIAL ROLE OF PROPERTY

The Federal Law 10.257/2001 (Statute of the City) defines tools, which the Public Power – especially the municipal one – must apply to solve the urban problems, usually of high complexity, such as illegal, irregular or clandestine settlements. The Statute of the City "establishes rules that regulate the use of urban property for the collective good, safety and well-being of citizens, as well as environmental balance" (Cap. I, 1st item, single paragraph) and states that "the urban policy has as its goal to ordain the functioning of social roles of the city and urban prosperity..." (2nd item).

For the city to fulfill a social role, according to Arlete Moysés Rodrigues (2004, p.11), it is important that "individual property is, at least, relativized", in order to grant access to all the city's inhabitants. Also according to the author, such relativism is stated in the Statute of the City, especially in the items that draw limits to real estate speculation.

As Arlete Moysés Rodrigues wrote (2004, p.11), the Statute of the City was built with strong participation of the civil society movements that fought for the urban reform and, such movements' main point "has been to question the supremacy of right to appropriation, land property and urban buildings in relation to the right to life". In this sense, the author states that, in the Statute of the City, the urban space is understood as a "collective product, and not only resulting from the typically capitalist agents", making it clear that the urban problems must be "analyzed at the complexity of production and in the cities".

> The principles of the Statute allow the unveiling of conflicts related to planning, appropriation, property, management and use of the land in urban areas. The Statute does not solve nor erases such conflicts, but sheds light unto them, showing that society is unevenly constituted. It recognizes, as well, that urban population is predominant, and the lack of access to the majority of the actual urban standards (MOYSÉS, 2004, p.12).

According to the author, the Statute is innovative because it recognizes the "real city" and, thus, recognizes the need to legitimate and legalize the areas occupied by houses. Also, it establishes land division criteria, and enforces popular participation in the creation of the Development plan.

Battaus and Oliveira (2016) contribute to the understanding of how the Statute of the City enables it so that access to urban space is indeed everyone's right. As said by the authors, real estate speculation in Brazilian cities contribute to the increase of socio-spatial segregation, armoring urbanized areas and, thus, making them accessible only for those with high acquisitive power.

Some Statute of the City's tools have in common, in a clearer manner, means of fighting urban emptiness and investment redistribution, prioritizing collective goods, based especially in the social role of property, promoting an egalitarian city.

The "Compulsory Installment, Edification or Usage" (CIEU) allows the city power to have the opportunity of boosting productivity of an urban property that has been idle until then.

> Regarding the "unproductivity" of urban land previously discussed, which results, mainly, in the configuration of excluding urbanization processes, and reinforcing the Exchange value of space-commodity, it can be observed that the tool titled "Compulsory Installment, Edification or Use" deals with the occupation and adequate use of urban properties (BATTAUS e OLIVEIRA, 2016, p.99-100).

In case the role is not fulfilled, a gradual taxation sanction comes into play, through time-progressive Territorial Tax, followed by eviction with payment in government bonds.

According to Battaus e Oliveira (2016), these tools seek to build continuity of the urban fabric, making it thicker and optimizing the urban and services infrastructural resources.

While restraining the permanence of speculative urban empty spaces, mainly, the better usage of urban infrastructure spaces is sought, as well as a fair distribution of such spaces among its citizens, thus the main goal being the fulfillment of the social role of urban property.

Another tool highlighted by the authors is the "Onerous Grant of the Right to Build" (OGRB). OGRB shows efficacy in controlling verticalisation and "a fair way to measure the onus thus commented towards those that promote the impacts caused by such" (BATTAUS and OLIVEIRA, 2016, p. 101).

> The giddy process of urbanization in Brazilian cities, as it is widely known, did not occur concurrently to the implementation of urban development tools and, in consequence, several impacts caused by the disorderly thickening of urban centers were identified. The demands for usage of infrastructural and service networks in these cities became a representative onus to the urban environment and its inhabitants, as well as to public administration. Such thickening happens, essentially, due to the phenomenon of exacerbated verticalization, causing liabilities, thus, to existing items that supply properties which, suddenly, turn to be occupied by a much larger number of houses (BATTAUS e OLIVEIRA, 2016, p.101).

It is vital that the owner of a new building, for example, compensate through financial resources or constructions, due to the encumbrance of infrastructure and services of such place and, while taking advantage of the benefits for such verticalization – having greater land use, they will also have better financial results. In this case, while applying the OGRB, the resulting value should be directed to urban improvements in areas of smaller real estate interest, re-balancing public investments in different areas of the city.

Another important tool which is made available by the Statute of the City is the "Special Zone of Social Interest" (SZSI), aimed at reducing segregating real estate speculation. Such tool is used for landowning regulation and providing social interest housing, allowing the adoption of differentiated urban indexes, with the goal of fulfilling such demands. In 2009, Federal Law 11.977 about landowning regulation of social interest areas formalizes the concept of SZSI as "part of urban area instituted by the Development plan or defined by another city law, meant to be used predominantly as housing area for the low-income population and subject to specific installment use and occupation of land specific rules" (item 47). In 2011 and 2012, two new items were added to the Statute of the City (42-A and 42-B), which impose that areas destined for social interest inhabitation must be contemplated through the SZSI, Each SZSI demands a specific legislation, within the local context and produced with popular participation. There is the SZSI of empty areas and the SZSI for the regulation of areas occupied by precarious and illegal settlements.

In the Statute of the City, the Landowning Regulation is also presented as a tool. In chapter 2, 2nd item, where it describes the general guidelines, it grants the possibility of "landowning regulation and urbanization of occupied areas by the low-income population facing

the establishment of special urbanization, use and occupation of the land and building rules, having considered the social-economic situation of the population and environmental rules".

The landowning regulation is a way to permit that home dwellers leave the illegality situation they might find themselves into. Besides granting access to urban land, such action allows access to other essential public services, such as basic sanitation, since the place that has been occupied now becomes recognized as a legalized parto f the city, and to make part of the municipal urban development plan.

5 CONCLUSION

The article portrays the analysis of different authors, between classics and scholars of the subject, about the right to city, highlighting the social role of city and urban property as a mean through which access to city as a collective good can be granted, and as a legitimate right of the citizens. Twenty years after the promulgation of the Statute of the City, the dynamic between social role of urban property and private property is a matter which is far away from being solved.

In the conflict between the right to city and right to property, the social role of property stays in second plan frequently. The difficulty of access to land still reflects the dynamic of the Brazilian colonial era.

This article sought to show that, despite such right being widely recognized, the social role of property is put aside in relation to the right to private property. It is necessary that such clash is analyzed as a whole, so that it walks towards the same path, allowing urban space to be a fair one.

It is understood that the use of urban land as a commodity is incompatible with the effectuation of the right to city. For valuable areas in the city to exist it is necessary that non-valuable areas exist as well. Also, the lack of quality public spaces for common use, such as leisure areas, makes it so that the demand for private spaces of the sort increase. Pereira (2021, p.19) draws attention to the need of the "[...] formatting of a research schedule that considers the (re) construction of rules of use and occupying of the urban land that allow for the instituting praxis; of rules that have the use as condition for the right to property[...]".

Despite of the innovation and great advance in the Brazilian urban legislation, it is still necessary that the organized urban social movements, which demand right to the city, fight in order not to become criminalized, in the search to earn the right of living decently in the city. The private interests have no right to stop individuals from having access to something that is fundamental for reproduction of life in a society.

The Statute of the City presents tools to grant the right to the city, However, such tools must be justified for each city's profile, in accordance to local diagnosis. That is, cities must use those according to their needs, which are defined in the municipal development plan and, in that point, the interests of different urban space producing agents come into clash, many of them represented by the local real estate market.

After twenty years of the Statute of the City, there still are many challenges for the construction of a fair and equal urban space. In that sense, the following questions can collaborate for a more specific reflection: What is necessary, from the point of view of public

management, for the urban spaces of the Statute of the City to be applied in an effective manner in urban spaces? The present tools in the actual regulation mark are enough for the social role of property to be granted? Did the application of said tools collaborate for the promotion of social justice?

The concept of Right to the City needs to be revisited in its origin and evaluated deeply, since it can be trampled by appropriation of the juridical-urbanistic tools by real estate capital and municipal management becomes hostage of those investments without making its preemptively defended results objective, which were also remembered in this article.

Finally, such questions still lack more specific answers, because these ideas and ideals fight against the capitalist/mercantilist logic of private goods accumulation, and in the city's arena, despite the existence of legal tools, the clash of interests keeps resulting in the increase of inequality and socio-spatial segregation, among others.

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