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I. Introduction

This chapter presents the process of political and legal construction of the right to the city in Brazil. It shows that its recognition and conversion into public policies and legal instruments took place only after intense mobilisation of social movements committed to its implementation. Several moments in recent Brazilian history are analysed in order to highlight key milestones in this mobilisation process. Using the historical method, the chapter works from the hypothesis that, although Brazil was the first country in the world to recognise this right, the growing political polarisation and conservative shift in the country places it at serious risk.

II. The traces of slavery in Brazilian urbanisation

Brazilian urbanisation, which predated the abolition of slavery, was nevertheless accelerated by it: the first favelas emerged in the period around abolition, especially in Rio de Janeiro (Zaluar and Alvito, 1998). Just as no mention was made of a need for redress after 350 years of abduction, enslavement, commodification, abuse and torture of the black population, Brazil abolished slavery without saying a word on where the descendants of slaves would be housed. This explains why the first Brazilian favelas coincided with the abolition of slavery. Collecting scrap material from the streets, former slaves and their descendants built precarious housing in urban areas that lacked services and infrastructure. They had possession of the land, but no legal title.

In the years that followed, the situation continued to worsen and, with the rapid process of industrialisation that took place in the country throughout the 20th century, some of the urban fabric began to concentrate along the coast and, to a larger extent, in south-eastern Brazil.

In the 21st century, Brazil is one of the world's most hierarchical and unequal countries, and a place where hatred directed at the poor is the legacy of the disdain with which slaves were treated during slavery.

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This is the sad common thread that perpetuates the social inequalities throughout Brazilian history. It is a country where Afro-descendants are the group that is most affected by the lack of housing policies. And yet housing issues affect other sections of the population too. Some studies place the housing deficit at 6,355,000 homes, despite the 7,906,000 vacant properties in the country (Fundação João Pinheiro, 2018).

III. The fight for urban reform

In response to these inequalities, Brazilian social movements became highly organised collective subjects, demanding urban reform and claiming the right to the city throughout the country's recent history. In a dialectical movement, civil society contested the political and legislative omissions with powerful social mobilisation, and significant advances were made.

Retracing the background to this, the federal constitution's chapter on urban development policy (1988) seems a good place to start: in just two articles, a striking historical attitude is presented. The configuration of the urban planning law was a turning point in the history of Brazil's planning and brought an era of technocratic planning to a close. The democratic process that led to this chapter being formulated (and which laid the foundations of the urban planning law) is one of the most notable in Brazil's formative history.

The National Forum on Urban Reform, which was set up in that period, included representatives from unions, NGOs, professional, community and academic associations, and activists from various movements for decent housing, quality transport, universal sanitation and public participation in urban management. The great merit of this collective subject was to go much further than merely making bleak diagnoses of Brazilian cities and their problems: it had the capacity to promote an urban reform programme for the country when history demanded it. Thus, a popular amendment for urban reform was presented to the Constituent Congress which, in 22 articles, proposed the introduction of various innovative instruments and guidelines relating to Brazilian urban policy.

This history is in the public domain. The balance of power in the Constituent Congress prevented the approval of many of the proposals made by the social movements that were presented via popular amendments. This is exactly what happened with the popular amendment on urban reform. As a result of the so-called *centrão*,¹ it was reduced to the content of articles 182 and 183 of the federal constitution, the chapter on urban policy. This appeared to be a defeat, but in fact these two articles have been extremely important, due to the type of policies whose implementation they enabled in Brazilian municipalities, and because they ushered in a new phase of Brazilian urban planning (Alfonsin, 2012).

1. "Centrão" is the name given in politics and the media to the alliance of centre-right parties who blocked the approval of the most progressive proposals during the National Constituent Assembly.

Article 182 of the Federal Constitution of 1988, which delegates the execution of urban development policy to municipal authorities, also mentions, for the first time in history, that the aim of urban policy is to guarantee the "social functions" of the city. It should be pointed out that the principle of the social function of property had already

been recognised in the Federal Constitution of 1934 (Fernandes and Alfonsin, 2010). Nevertheless, as well as requiring doctrinal effort to be made on the definition of the meaning and scope of this new principle, the inclusion of the expression “social functions of the city” in the 1988 constitution involved a significant leap in scale: it meant an urban policy carried out “plot by plot” would be replaced by a policy that took urban planning to be a public function, in which the city itself is considered a common good. Finally, it is also important to note that the urban policy chapter in the new Federal Constitution established the bases for the subsequent legal recognition of the right to the sustainable city.

Following the 1986–1988 Constituent Assembly, many municipalities went on to create notable urban development policies. A striking experience in this sense is Porto Alegre’s participatory budget. It might be presumed that this public policy was created by the Workers’ Party, but in fact the establishment of Porto Alegre’s participatory budget was actually the result of agreement between the urban social movements and the municipal administration. One of the most important elements of the participatory budget in relation to the right to the city is that it establishes public participation as a compulsory precondition for the city council approving the municipal budget.

At its height (1998–2002), the participatory budget gathered 45,000 people at 16 regional plenaries and six thematic plenaries (carried out in two rounds), and at intermediate meetings for presenting demands and analysing them. The experience featured significant citizen awareness and a permanent mobilisation of low-income people over a period of 16 years around issues concerning the right to the city. This justifies its inclusion within the framework of constructing this right in the country.

In legislative terms, Brazil ended up becoming the first country in the world to recognise the right to the city. Thanks to the large-scale mobilisation of the National Forum on Urban Reform, the City Statute of 2001 became the first public law in the country to develop an urban policy and the first to describe the city’s production processes from an urban reform perspective. The right to the sustainable city was incorporated into national legislation with a wording that included multiple rights for the inhabitants of cities.² Specifically, the City Statute (Law 10.257/01) establishes the following:

Article 2. The purpose of urban policy is to give order to the full development of the social functions of the city and of urban property, based on the following general guidelines:

I – to guarantee the right to sustainable cities, understood as the right to urban land, housing, environmental sanitation, urban infrastructure, transportation and public services, employment and leisure, for current and future generations.

(Santos Carvalho and Rossbach, 2010: 92).

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2. The right to the city is presented in the City Statute as the “right to the sustainable city” as a result of the discussions held during the period of processing the draft legislation, which sought to align the debate on cities with the right to an ecologically balanced environment.

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work of the 2002 World Social Forum in Porto Alegre, with the intention of disseminating the right to the city as a collective human right. This charter had a highly mobilising effect on civil society around the world, allowing a platform to be built to exert political pressure on the United Nations to recognise the right to the city as a human right. It was an important moment in internationalising the vision and the political demands for it to acquire legal force.

Domestically, Brazil was at the same time inaugurating a cycle of popular governments led by the Worker's Party (PT) with Lula and Dilma at the fore. The 2003 elections helped consolidate the right to the city, as major public policies were drawn up that aligned with different component parts of this right. The Ministry of Cities was created in 2003 and aimed to fight social inequalities, to transform cities into more humanised spaces and to extend access to housing, sanitation and transport. The institutional advances involved programmes of land regularisation, as well as creating mass housing programmes, such as *Minha Casa, Minha Vida* (My home, My life). Though there were criticisms of the programme,³ what is undeniable is that almost four million new houses were built across the country in a context of serious housing shortages. Another significant advance during the Lula and Dilma governments was the democratisation of the process of discussing urban policy. In particular, a cycle of Cities Conferences took place at the different territorial levels (including municipal, state and national conferences) in a notably decentralised process of public participation to debate the country's urban policy. However, although urban and housing policies were progressing, Brazil began to experience the political process of gradual erosion of the Dilma government, which was, to a large extent, the result of dissatisfaction among national elites with the social policies implemented by the PT governments, as well of manipulation by the national media.

IV. Setbacks and responses

From 2013 onwards the course of the right to the city in Brazil came to be characterised by a series of political disputes and ambiguities marked by political and legal advances and setbacks. In June 2013, following a rise in public transport fees, a series of political demonstrations broke out in various Brazilian cities. The first took place in Porto Alegre after a 20 centavo increase in fare prices.⁴ The increase may not appear great but the mass mobilisation against the rise was immediate. The first demonstrations were called by the *Bloco de Luta pelo Transporte Público* in front of the Rio Grande del Sur court of law,⁵ which recognised that the increase was unfair and upheld the decision taken by Judge Hilbert Maximiliano Obara of the 5th public treasury court. Looking back, the repercussions of this judicial decision were highly important for the sequence of events in 2013 as, seeing the success of the popular resistance strategy in Porto Alegre, major protests were organised in other cities against unfair rises in public transport fares. A domino effect occurred that meant demonstrations broke out across the whole country that were characterised by mass participation, extensive press coverage and various undeniable victories, such as the reduction of fares in over 100 cities.

3. The main criticism of the *Minha Casa, Minha Vida* programme made by the Urban Reform Movement related to the housing being located principally on the outskirts of cities.
4. Urban public transport fares in Porto Alegre rose from 2.85 to 3.05 reais in March 2013.
5. The *Bloco de Luta pelo Transporte Público* was the organisation behind the mobilisations against the public transport fare rise in Porto Alegre from March 2012 onwards. For more information, see: <https://pt-br.facebook.com/pages/Bloco-de-Luta-pelo-Transporte-P%C3%ABlico/488875294508389> [Accessed 09.01.2014].

It should be noted that though the demonstrations began by focussing on reducing fare prices, they diversified later on to take in other issues related to the exercise of citizenship. In addition to the right to urban public transport, other demands were made in relation to social rights, such as health, education and the right to political participation. A powerful movement for the right to the city was emerging at this point and included millions of people. Amid this boom, an intense process of media manipulation began that led to demonstrations against public transport fare rises becoming spaces for criticising corruption (Souza, 2016). The agenda was co-opted by right-wing movements that exerted their influence in June 2013, aided by the key role of the television network Rede Globo.

From that point on, Brazil began suffering major setbacks in terms of democracy and human rights. In 2016, part applauding, part horrified, the country witnessed the removal of the president, Dilma Rousseff, after an impeachment process in which no real crime of responsibility had taken place. This was a parliamentary, judicial and media coup that soon had highly perverse effects on the Brazilian population as a whole. Taking advantage of the political situation, Michel Temer's government sent congress a series of ultra-liberal structural reforms, including:

- Limiting public spending for 20 years (fiscal austerity policy);
- Labour reform;
- Secondary education reform;
- Social security reform;
- Reform of the legal framework on land.

The last reform, enacted in Law 13.465/17, was the most significant for the right to the city. It modified the legal regulation of four land systems: the lands of the Amazon, the public federal lands, the regularisation of rural land, and the regularisation of urban land, which meant reforming the City Statute.

This legislation represents a worrying regression in the right to the city in Brazil. It prioritises processes of mass awarding of title deeds that could facilitate malign gentrification processes, as Raquel Rolnik (2015), former United Nations Special Rapporteur for the human right to adequate housing, has made clear in her work on the financialisation of land and housing in several countries around the world.

V. The right to the city in global agendas

Though it may seem paradoxical, the new laws contrast greatly with the commitments Brazil has made to the United Nations. In fact, whilst these structural reforms were being promoted, Brazil took part in the Habitat III conference in Quito as a highly important actor (especially in the preparatory process), playing a key diplomatic role in ensuring the right to the city was included in the New Urban Agenda (NUA). Both Brazilian civil society, through the Global Platform for the Right to the City, and the government itself (before President Dilma Rousseff was removed), were important in helping formulate paragraph 11 of the NUA:

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11. Our shared vision

We share a vision of cities for all, referring to the equal use and enjoyment of cities and human settlements, seeking to promote inclusivity and ensure that all inhabitants, of present and future generations, without discrimination of any kind, are able to inhabit and produce just, safe, healthy, accessible, affordable, resilient and sustainable cities and human settlements to foster prosperity and quality of life for all. We note the efforts of some national and local governments to enshrine this vision, referred to as “right to the city”, in their legislation, political declarations and charters. (UN, 2016).

The level of political commitment the United Nations made to the right to the city is notable, above all because the NUA also incorporates different elements of it throughout the text. In the Brazilian case, the NUA reinforces a great deal of the legality of the right to the city, because as well as having a constitutional basis and provision in ordinary law, it is also provided for in international law (although merely a declaration or soft law, it contains the political agreement and commitment of the signatory countries). Notwithstanding the generic nature of most international law documents (which enables agreement between countries with highly different realities) and the contradictions they often contain, it is worth noting that the central elements of the right to the city, as historically established, are present in the NUA:

- The principle of the social function of land;
- The principle of urban environmental sustainability;
- The right to housing;
- The right to participation;
- The right to public space.

In fact, Brazilian social movements are clear about the strategic role of the right to the city in the fight for urban reform, especially in the current harsh political climate, which is characterised by the rise of a conservative wave which comes close to the grisliest fascism. In this respect, Brazilian social movements and non-governmental organisations are committing to a new strategy that includes: (i) promoting certain strategic lawsuits (such as the unconstitutionality of Law 13.465/17) in the Federal Supreme Court; (ii) wide dissemination of the commitment made by Brazil in relation to the right to the city after signing the NUA as a way to legitimise legal claims; and, finally (iii) the mobilisation of popular movements for the right to the city, with all its component parts.

Though a number of clear examples of this exist, only two will be cited. The first is the *Povo Sem Medo* (People without Fear) occupation in São Bernardo do Campo (Metropolitan Region of São Paulo), where 8,000 families occupy land that was abandoned over 40 years ago. The occupation strongly condemns the abandonment of housing policies for low-income people in Brazil, and the total absence of monitoring of the fulfilment of property’s social function in urban real estate in Brazil’s major cities.

Povo Sem Medo occupation (São Bernardo do Campo – Metropolitan Region of São Paulo).



Photograph: Ricardo Stuckert (2017).

The second example of the recent mobilisations is the huge march organised by various social movements in Brasilia to demand Lula be allowed to stand for president of the republic. The march demanded that debate about the quality of democracy in the country be a central theme for Brazilian politics in the pre-electoral context.



These demonstrations show that in periods characterised by serious regressions, social movements are organising processes of resistance based around the right to the city.

VI. Final considerations

The case of Brazil clearly shows the emergence and strengthening of the right to the city as a new urban paradigm. The country's experience demonstrates the importance of social movement organisations and civil society entities in strengthening this new paradigm from legal and institutional perspectives. Nevertheless, it is also a clear example of how the social and political demands for the fulfilment of the right to the city (and all the rights that make it up) must be permanent, because incorporating it into current law is not sufficient to guarantee its effectiveness. Brazilian activists are aware that a strong mobilisation is necessary to guarantee the right to the city for all the Marielles in Brazil. In homage to Marielle, a councillor and activist for the right to the city, the resistance will continue throughout her political term. **Marielle Franco: PRESENTE!**



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