

## URBAN PLANNING AND THE ADVANCE OF DEMOCRACY IN BRAZIL

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Brazil is the first country in the world in unequal distribution of wealth. The following table was taken from the Argentinean newspaper *Clarín*, ( 9/16/1997, pg. 20), quoting UNCTAD as source.

TABLE I

### PERCENTAGE OF TOTAL INCOME WHICH GOES TO THE RICHEST 20% OF POPULATION

Brazil	65%
South Africa	64%
Guatemala	63%
Kenya	62%
Chile	61%
Mexico	60%
Thailand	58%
Venezuela	57%
Argentina	55%
Malasia	53%

Such an uneven distribution of wealth brings uneven distribution of political power. Since long time ago, government action has been responding far more to the demands of the wealthy minority than to those of the poor majority. Theoretically the law and government services should be the same for everybody, but in practice that is not true. Education oportunities, health services, police protection, justice etc. are not the same for everybody for the difference between private and public services is enormous. Even services which are not market oriented and therefore should be the same for everybody, such as police protection or justice vary widely for the rich and for the poor. Housing financing is not the same for different social classes. While private banks have several types of financing plans for the middle class, public low cost housing programs respond for a negligible fraction

of the demand. The same happens with urban planning, urban environment, urban services and laws controlling urban space.

The vast majority of urban population in Brazil lives in illegal conditions as far as urban law is concerned, for real estate market does not offer legal lots and legal houses within the purchasing power. In São Paulo it is estimated that 70% of the population lives either in an illegal lot or subdivision or in an illegal house ( Rolnik et alii, 1994). Urban law in Brazil has traditionally been designed to meet the standards and needs of the wealth minority. The amount of the population living in squatter settlements ( *favelas*) has experienced enormous growth in the past decades ( see Table II below, figures for São Paulo) . In Brazil, as far as urban law is concerned, the exception is the rule and the rule is the exception.

TABLE II  
MUNICIPALITY OF SÃO PAULO  
GROWTH OF SQUATTER SETTLEMENT

Year	Population	
	In squatter housing	% of total city
1980	594.527	5.2%
1987	812.764	8,9%
1993	1.901.892	19,2%

Source, TACHNER, S. , 1996, *Degradação ambiental nas favelas de São Paulo*, in **Espaço & Debates**, São Paulo, ano XVI, no. 39 1996, p. 104/113.

In the past decades there has been some political struggle over housing and urban land, both at national and local levels, but advances have been negligible, if any. The struggle for rural land has been far more effective.

For decades, master plans prepared by several Brazilian cities have been nothing but discourses. Zoning ordinances however have been reasonably effective. A large number of Brazilian cities and towns have passed comprehensive zoning ordinances in the past decades. Zoning however has had virtually no influence at all on access to housing quality and cost and on the environment of poor neighbourhoods. On the other hand the few public housing projects built in the past decades have met only a small proportion of the needs of the poor population.

The only alternative left to the poor majority has been self help housing on public land. This means not only an illegal lot but also very poor sanitary conditions since these settlements sometimes lack even the streets necessary for the laying of water supply and sewage systems. Today Brazilian metropolitan areas and middle size cities can be divided into two areas One, which is occupied by upper and middle classes ( from 20% to 40% of the population) which is legal from the point of view of land ownership and ordinances controlling urban space and which has reasonably good urban standards; and the rest, which is illegal and has very low urban standards.

It can be said that the relative democracy Brazil enjoys today began in 1988 when the present National Constitution was adopted. This democracy is formal, however. In the 70's, in the dictatorial period, several Housing and Urban Land Social Movements were organized throughout the country, pressing conservative social forces which have always produced the urban ordinances which have ignored the illegal city.

In the early 80's there was a widespread social dispute over the content and process of drafting the new National Constitution. The main issue as to process of preparation was whether a specific congress should be elected with the only purpose of preparing and approving the new constitution, being dissolved afterwards; or whether a regular congress ( with its normal term and functions) should do it. This latter alternative won. Simultaneously with this debate several others sprang up and several social movements were organized, especially housing and urban land social movements.

By the end of the 80's, six national organizations and many regional ones, with the support of 160.000 signatures sent to the National Congress a suggestion of a constitution clause regarding urban real estate property, housing, urban transportation and urban management. These movements gave birth to a National Movement for Urban Reform.

The National Movement for Urban Reform was the first massive movement to press conservative political forces and force them to face the problems that different types of master plans and urban ordinances have ignored for decades: the illegal city. Popular movements did not press for master plans, but for real urban reforms, especially regarding land taxation. Real estate lobbying however, pressed for master plans. Actually, by doing so, they just wanted to postpone or fight against urban reform.

The result of the debate over the provisions of the national Constitution on urban issues was a compromise solution. An article was approved stating that every town with a population above 20.000 should have a master plan approved by the city council. On the other hand, the same article provided for the regulation the "social function of real estate property" stating that such property "fulfills its social function when it meets the fundamental requirements of the city's ordering expressed in its master plan". Other progressive positions were also approved in the same article ( article 182 of the National Constitution of 1988). One of them states that "... within the limits of a federal law regulating this subject, municipal governments may determine, once adopted a specific law for areas included in the master plan: "

- That the owner of vacant, unused or underused land should use it, or he or she will be subject to, *successively*,

- Compulsory subdivision or building.
- Real property tax progressive in time.
- Expropriation payed with titles ( not with money)

As it can be seen, several obstacles were introduced in the Constitution to hinder the application of such sanctions. To start with, a federal law was required. A local specific law was also required adopting the master plan and the "area " ( or areas) within which those sanctions would apply. Finally the application of such sanctions would have to be *successive*.

Up to the moment, i.e. almost 10 years after the adoption of the Constitution, the necessary federal law regulating art. 182 has not passed. It was not even been presented and discussed in the National Congress.

Since 1988 the vast majority of Brazilian cities have not adopted a master plans, including the biggest of them, São Paulo. Several cities and towns however, did so. The presentation of these master plans to different city councils was an opportunity for considerable social dispute on what should be a master plan.

In São Paulo, for instance, which at the time was governed by a left wing mayor ( with a right wing council) there was a long dispute, and the master plan prepared by the mayor was not even discussed in the city council.

This dispute made clear the existence of two social forces. The conservative ones, led by developers and right wing parties, who stuck to an old fashioned, comprehensive and complex concept which thought of master plans as a series of principles, policies and guidelines followed by innumerable suggestions for the solution of urban problems, as well as middle and long range plans for infrastructure, transportation, recreation and land use. This was precisely the type of plan that has seldom been effective in Brazil.

The other, was led by left wing parties which fought for urban reform. In some progressive administrations, the preparation of master plans have been used as opportunities for discussing its proposals with the population especially its political aspects and the interests involved in urban development, such as those related land property, its social function and taxation. New types of zoning were studied, mainly *Especial Zones of Social Interest* where **maximum** standards would be defined, especially maximum size of lots to secure cheap lots for low income population. Finally, proposals of a standard 1 ( one) density, (i.e. relationship between built up area and area of the lot equal to one) , approved by municipal law. This provision involves the juridical interpretation of what would be the **right** associated with urban land ownership. The progressive interpretation assumes a separation between **land property rights** and the right to build upon land, or **development rights**. According to the latter, the land owner would have his ( or hers) development rights limited to the area of the lot ( density one) . The right to build above

the lot area would have to be granted by the government ( or by the "State" in broad political terms, here represented by local government) and subject to payment. Obviously such proposals faced violent opposition on the part of conservative forces. In some cities, city councils have approved "principles " related to the payment of development rights but the necessary operational law regarding such principles has never passed.

Meanwhile poor population keeps occupying public land. This is mainly land reserved in private subdivisions ( opened up in the past decades) for recreation and public use. This land is donated to municipal governments by developers when they open up a subdivision. Local governments however, have seldom used it. Financial capacity of cities to landscape these areas and build parks or playgrounds is very limited, so such areas have stayed idle for decades. It is actually abandoned land. Recovering such occupied land for the city with judicial measures would be unthinkable, since the city would not have where to put the removed population. Today, several municipal authorities have given up the hope of recovering such occupied land and started improving squatter settlements or even building new houses on it and selling them. Recently several public housing programs, in São Paulo, have been built on such land, replacing squatter housing.

Brazil's main left wing party, PT, administered São Paulo between 1988 and 1992 and offered some 30.000 low cost houses ( new houses, dwellings in redeveloped slums etc.) ; that makes an average of 7.500 a year . From 1992 and 1996 and since then, the city has been administered by extreme right mayors who have built an average of 1.000 to 2.000 houses a year. Since the city has 480.000 families living in squatter settlements, it would take 96 years to house these families if it is assumed a rate of 5.000 houses a year and no additional growth of squatter settlements.

Present situation in Brazil indicates that *master plans* ( and their compulsory approval for towns with population above 20.000) have no future. Politicians ( potential mayors or councilmen ) are not interested in master plans, because they can be used to limit their freedom or even against them. On the other hand, the leaders of urban social movements do not believe in master plans or are tired of waiting for effective master plans.

In the national political arena, advances as to effective housing and urban land policies lie in the approval of additional legislation required to regulating art. 182 of the national constitution. Advances in such field are very slow. Conservative social forces are very strong, both at national and local levels and social pressure to pass progressive laws is weak.

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## REFERENCES

ROLNIK, R. et alii, **São Paulo, crise e mudança**, São Paulo, Prefeitura Municipal de São Paulo, s.d.