

THE MASTER PLAN AND DEMOCRATIC PARTICIPATION IN THE DEVELOPMENT OF PUBLIC POLICIES FOR THE CITY

O PLANO DIRETOR E A PARTICIPAÇÃO
DEMOCRÁTICA NO DESENVOLVIMENTO DE
POLÍTICAS PÚBLICAS PARA A CIDADE

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ABSTRACT

This article aims to analyze the democratic participation in the control of public policies of city development through the Master Plan which is considered the basic instrument of urban development instituting guidelines in search of improvements for the community, providing a dialogue between society and public administration. Planning the urban environment is strictly important for the development of a city, so that it fulfills its social function in order to avoid problems such as social exclusion. Urban public policies concern the plan of the city's collective issues and aim to realize the rights of citizens who must actively participate in order for them to function and be properly implemented. The Master Plan is mandatory for cities with more than 20,000 inhabitants, and aims to organize and improve public spaces, giving the broad possibility of citizen participation in decision-making by the public power. In this sense, the importance of this instrument as a mechanism for the promotion of democracy. The study stands out by analyzing the importance of citizen participation in the design and implementation of policies promoted by the Master Plan for the development of the city and how their foundations can, provided that properly implemented improve the quality of life of citizens. The research is characterized as being theoretical, qualitative and bibliographic and the method of procedure is deductive, drawing on historical, sociological and legal material from books and scientific articles.

KEYWORDS: Urban Planning. Master plan. Participation. Public policy. Development.

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RESUMO

O presente artigo tem o objetivo de analisar a participação democrática no controle das políticas públicas de desenvolvimento da cidade por meio do Plano Diretor que é considerado o instrumento básico de desenvolvimento urbano instituindo diretrizes em busca de melhorias para a coletividade, proporcionando um diálogo entre sociedade e administração pública. Planejar o ambiente urbano é estritamente importante para o desenvolvimento de uma cidade, para que esta cumpra a sua função social a fim de se evitar problemas como a exclusão social. As políticas públicas urbanas dizem respeito ao plano das questões coletivas da cidade e visam concretizar os direitos dos cidadãos que devem participar ativamente para que elas funcionem e sejam devidamente implementadas. O Plano Diretor é obrigatório para as cidades com mais de 20.000 habitantes, e visa organizar e melhorar os espaços públicos, dando a ampla possibilidade de participação do cidadão na tomada de decisões do poder público. Neste sentido a importância deste instrumento como mecanismo de promoção da democracia. O estudo se destaca ao analisar a importância da participação cidadã na elaboração e implementação das políticas promovidas pelo Plano Diretor para o desenvolvimento da cidade e como seus fundamentos podem, desde que devidamente implementados melhorar a qualidade de vida dos cidadãos. A pesquisa se caracteriza como sendo teórica, qualitativa e bibliográfica e o método de procedimento é o dedutivo, valendo-se de material histórico, sociológico e jurídico, a partir de livros e artigos científicos.

PALAVRAS-CHAVE: Planejamento Urbano. Plano Diretor. Participação. Políticas Públicas. Desenvolvimento.

1 INTRODUCTION

Seeking to circumvent urban problems such as inadequate land/soil use, slums, impoverishment of part of the population, misery and delinquency, due to the poor distribution of income and among other motivations, urban planning standards were established, with emphasis on the Master Plan, as an instrument capable of organizing the city, promoting urban public policies that favor the common good over the particular.

It's important to remember that in order to exist harmony within a society, guaranteeing the social integrity of citizens, it's extremely important that this urban environment is organized with norms designed for its development.

Still, citizen participation is also important in making decisions and formulating public policies for the interests of your city, which is guaranteed by the Brazilian Constitution of 1988.

The participatory republican principle is an important milestone for the Democratic Rule of Law, favoring democratic management and concretization of fundamental and social rights.

The City Statute ("*Estatuto da Cidade*") imposed citizen participation for the preparation of the Master Plans ("*Plano Diretor*"), mandatory for cities with more than 20.000 (twenty thousand) inhabitants, as a way of guaranteeing the full guarantee of rights and urban balance.

This provision is extremely relevant, balancing the relations between State and citizens, in which the development of urban standards in the Municipality has the evaluation and the endorsement of society.

Chapter IV of the City Statute indicates four instruments to guarantee the democratic management required for the Master Plans to have effective popular participation, namely:

the collegiate bodies of urban policy at the national, state and municipal levels; debates, hearings and public consultations; conferences on issues of urban interest at the national, state and municipal levels; and the popular initiative for a bill and plans, programs and projects on urban development.

In this way, we can see how much the population is legally protected against irregularities and administrative illegalities.

However, there is an increasing lack of interest or disbelief, or even what scholars call 'urban illiteracy', characterizing that the population doesn't worry or isn't aware of it or even says that 'they are too busy' to know and to treat matters of their own interest in the city where they lives, favoring the discretion of the Administration.

The Public Administration taking advantage of this situation, of non-interaction and non-monitoring by the population, ends up not complying with the urban planning instituted by its Master Plan, causing numerous social problems to the population.

The participatory inclusion imposed for the elaboration of the Master Plan is the main object of this study, guaranteeing democratic management and promoting public policies so that the city fulfills its social function, ordering public spaces and reducing social segregation.

The joint action of society with the Municipal Administration favors a balanced environment and consequently sustainability, insofar the state actions are legitimized by citizen participation.

This article was developed from bibliographical, theoretical and qualitative research, in the areas of Constitutional, Environmental-Urbanistic and Administrative Law, and the data from the researched sources were analyzed by a deductive methodological process.

In this sense, the research started with an analysis of the republican principle of participation and its inclusion and importance for urban planning, highlighting the Master Plan as an important instrument to guarantee this participation and still demonstrating that, despite the advances in urban planning practices, the popular participation has not yet received due attention.

2 PARTICIPATIVE INCLUSION IN URBAN PLANNING

The concept of 'Urban Planning' has its roots in the Enlightenment, gaining, during the years of the Welfare State⁴ some particularities linked to economic growth and investment in social policies.⁵

4 Welfare State it's the State in which the citizen, regardless of his social situation, has the right to be protected against short or long term dependencies. It would be the State that guarantees minimum types of income, food, health, housing, education, guaranteed to every citizen not as a charity, but as a political right. STRECK, Lênio Luiz. Constitutional Jurisdiction and Legal Decision (Jurisdição Constitucional e Decisão Jurídica). São Paulo: Editora Revista dos Tribunais, 2013. p. 84.

5 MARICATO, Ermínia. Brazil 2000: what urban planning? (Brasil 2000: qual planejamento urbano?). In: Cadernos IPP UR, Rio de Janeiro, Year XI, 1 e 2, 1997. Available in: <https://erminiamaricato.files.wordpress.com/2016/12/cadernos-ippur.pdf>. Accessed on: July 10, 2019.

Planning has a direct connection with drawing up plans and controlling, creating the idea of prevention and organization of the future, seeking to visualize and solve all possible situations that may arise within a society.

In this tone, urban planning was born as a solution and as a response to the needs of the dynamic and systemic growth of cities, concerned with the accelerated growth of the population and inadequate land/soil occupation, factors that have been causing irreparable problems to the environment in which men live.

Therefore, planning the urban environment, the city, means instituting guidelines for organizing living areas, seeking to promote to the population an ecologically balanced and organized environment, in which everyone has decent conditions for survival, such as environmental sanitation, education, housing, leisure, job.

To plan is to formulate and to define social and environmental change strategies for the benefit of the community.

According to Abranches⁶:

The action of planning must always also include, equally, the spatiality and the social relations in cities, considering that these are permeated by a set of relations in which the existence of conflicts of interest and dominant and dominated is an always present factor (...) must, also, consider the participation of social actors who are outside the State institution so that decisions about the future of cities can approach what is idealized by the beneficiaries and interested parties themselves. (Our translation into english)

In Brazil, the arrival of urban planning models with more participatory and democratic features emerged especially in the 90s, motivated by the strength of the National Movement for Urban Reform (*Movimento Nacional de Reforma Urbana – MNRU*)⁷.

Abranches⁸ explains that through movements like this, greater articulations of public policies emerged and a greater commitment to the democratization of urban planning and city management, with popular participation becoming a priority element in city planning.

The period of greatest urban development began with the creation of the National Urban Development Policy (*Política Nacional de Desenvolvimento Urbano – PNDU*), which was part of the II National Urban Development Plan (*II Plano Nacional de Desenvolvimento Urbano – PNDU*), in 1973, during the military regime.⁹

6 ABRANCHES, Mônica. Urban planning in Belo Horizonte: a new mapping of the city's problems in the view of the Municipal Councilors (Planejamento urbano em Belo Horizonte: um novo mapeamento dos problemas da cidade na visão dos Conselheiros Municipais). Belo Horizonte: Pontifícia Universidade Católica de Minas Gerais, 2007. p. 36.

7 The MNRU it was the result of the union of several entities (neighborhood activist organizations, neighborhood associations, academics, professionals and popular movements) that wanted to take the opportunity to participate in the construction of popular amendments to be sent to the Constituent Assembly, these amendments were partially used in the 1988 Constitution, reduced to articles 182 and 183 which deal with the Municipal Master Plans and the adverse possession law. ABRANCHES, Mônica. Urban planning in Belo Horizonte: a new mapping of the city's problems in the view of the Municipal Councilors (Planejamento urbano em Belo Horizonte: um novo mapeamento dos problemas da cidade na visão dos Conselheiros Municipais). Belo Horizonte: Pontifícia Universidade Católica de Minas Gerais, 2007. p. 43.

8 ABRANCHES, Mônica. Urban planning in Belo Horizonte: a new mapping of the city's problems in the view of the Municipal Councilors (Planejamento urbano em Belo Horizonte: um novo mapeamento dos problemas da cidade na visão dos Conselheiros Municipais). Belo Horizonte: Pontifícia Universidade Católica de Minas Gerais, 2007. p. 44.

9 MARICATO, Ermínia. Ideas out of place and the place out of ideas. Urban planning in Brazil (As ideias fora do lugar e o lugar fora das ideias. Planejamento urbano no Brasil). In: A cidade do pensamento único. 8^a. ed. Petrópolis: Vozes, 2013. p. 126-127.

With the establishment of the 1988 Constituent and the arrival of the Democratic and Social State of Law, the guarantee of citizen participation in decision-making processes was established, favoring the application of urban legislation.

Siqueira Júnior¹⁰ well teaches that the participation of the individual in the affairs of the State is the exercise of citizenship which, today, has a much broader meaning than the simple exercise of voting.

The current conception of citizenship also presupposes that the citizen participates in decision-making on issues of public interest that take place through the so-called public policies.¹¹

The participation is a principle of Public Administration enshrined in Constitutional and Administrative Law.¹²

Perez¹³ stresses that "it's through decision-making processes that allow dialogue between society and the Public Administration that the degree of efficiency of its performance is increased" ("é por meio de processos de decisão que permitam o diálogo entre a sociedade e a Administração Pública que esta aumenta o grau de eficiência de sua atuação") (our translation into english).

The Federal Constitution of 1988 assures the direct participation of the people in the construction of the Democratic State of Law, establishing a series of norms with the scope of supporting the participatory institutes in the Public Administration, turning in this study our eyes to the Master Plan, instituted in its article 182, § 1º.

This legal provision describes that "the urban development policy, carried out by the Municipal Government, according to general guidelines established by law, aims to order the full development of the city's social functions and guarantee the well-being of its inhabitants" ("*a política de desenvolvimento urbano, executada pelo Poder Público Municipal, conforme diretrizes gerais fixadas lei, tem por objetivo ordenar o pleno desenvolvimento das funções sociais da cidade e garantir o bem – estar de seus habitantes*") (our translation into english)¹⁴.

Reaffirming, this provision establishes that the urban development policy aims to: order the full development of the city's social functions and guarantee the well-being of its inhabitants.

In addition, we find a Constitutional provision for urban public policies in articles 23, item IX and 30, item VIII, with this latter standing out, which delegates competence to the Municipality to legislate promoting the appropriate territorial ordering, through: planning and control of land/soil use, parceling and land/soil occupation.

10 SIQUEIRA JÚNIOR, Paulo Hamilton. Citizenship and Public Policies (Cidadania e Políticas Públicas). Revista do Instituto dos Advogados de São Paulo, vol. 18/2006, Jul. – Dec. 2006, p. 1.

11 SIQUEIRA JÚNIOR, Paulo Hamilton. Citizenship and Public Policies (Cidadania e Políticas Públicas). Revista do Instituto dos Advogados de São Paulo, vol. 18/2006, Jul. – Dec. 2006, p. 1.

12 PEREZ, Marcos Augusto. Society's participation in the formulation, decision and execution of public policies (A participação da sociedade na formulação, decisão e execução das políticas públicas). In: Políticas Públicas: reflexões sobre o conceito jurídico. São Paulo: Saraiva, 2006, p. 163.

13 PEREZ, Marcos Augusto. Society's participation in the formulation, decision and execution of public policies (A participação da sociedade na formulação, decisão e execução das políticas públicas). In: Políticas Públicas: reflexões sobre o conceito jurídico. São Paulo: Saraiva, 2006, p. 163.

14 BRASIL. Constitution of the Federative Republic of Brazil of 1988 (Constituição da República Federativa do Brasil de 1988). Available in: <http://www.trtsp.jus.br/legislacao/constituicao-federal-emendas>. Accessed on January 2, 2020.

At this point, we can highlight the insertion of instruments to guarantee democratic management and the demand for popular participation in all phases of the process of preparing the Master Plan.

The Participative Master Plan (*Plano Diretor Participativo*) was also regulated by the City Statute (*Estatuto da Cidade*), which imposes the participation of society in the elaboration of norms of an urban nature. Considered the basic instrument for the policy of urban development and expansion, the Master Plan is considered an important tool for cities that face unlimited horizontal expansion, advancing on fragile or environmental preservation areas, as it points out basic urban planning guidelines for organization of the city, with the appropriate use and occupation of the soil, preventive measures against private irregularities, measures for sustainable development with better distribution of income, decent housing, education, transportation, reduction of crime.

The Chapter IV of the City Statute indicates four instruments to guarantee the democratic management required for the Master Plans to have effective popular participation, namely: the collegiate bodies of urban policy at the national, state and municipal levels; debates, hearings and public consultations; conferences on issues of urban interest at the national, state and municipal levels; and a popular initiative for the bill and urban development plans, programs and projects.

Thus, as José Afonso da Silva well observes:¹⁵ "the planning is no longer a process that depends on the will of governments, it's a constitutional and legal imposition" ("*o planejamento não é mais um processo que dependa da vontade dos governantes é uma imposição constitucional e legal*") (our translation into english).

Nelson Saule Junior¹⁶ points out that the City Statute City Statute launched a great challenge in regulating the Participative Master Plan, as it incorporated the most vibrant and lively aspects of democracy development by inserting the direct and universal participation of citizens in decision-making processes.

We can highlight among the participation instruments: councils, commissions and participatory committees; public hearings; public consultations; referendum; plebiscite; important mechanisms capable of guaranteeing a dialogue between society and the Public Administration and, through the Master Plan, provide for the concretization and implementation of public policies for the benefit of the entire collectivity.

This concern with the insertion of instruments that guarantee democratic management and the demand for popular participation in all phases of the process of preparing the Master Plan within the scope of the Municipal Public Power express the principle of popular sovereignty and offer a way to strengthen the participatory democracy.

Fadigas¹⁷ points out that "the absence of direct or indirect participation by society in the definition of policies and in the monitoring and scrutiny of their application and in the evaluation of results represents a clear violation of rights and a flagrant imbalance in the system of

15 SILVA, José Afonso da. *Brazilian Urban Law (Direito Urbanístico Brasileiro)*. São Paulo: Melhoramentos. 2008, 5ª edição. p. 90.

16 JUNIOR, Nelson Saule. *Right to the city: legal trails for the right to sustainable cities (Direito à cidade: trilhas legais para o direito às cidades sustentáveis)*. São Paulo: Max Limonad, 2001.

17 FADIGAS, Leonel. *Urbanism and Territory: Public policies (Urbanismo e Território: As políticas públicas)*. Edições Sílabo. 1ª Edição – Lisboa, April, 2015. p. 13.

relations between the State and citizens" (*"a ausência de participação, direta ou indireta, da sociedade na definição das políticas e no acompanhamento e escrutínio da sua aplicação e na avaliação dos resultados representa uma clara violação de direitos e um flagrante desequilíbrio no sistema de relações entre o Estado e os cidadãos"*) (our translation into english).

For Bucci¹⁸ the full realization of democratic management is the only guarantee that the instruments of urban policy brought by the City Statute are capable of promoting the right to the city for all.

However, although the concern with social well-being and the transmission of mechanisms to achieve this premise, there is still a failure in the implementation and applicability of the so utopian urban planning.

Although the legislation is abundant, the implementation of policies aimed at the urban environment generally doesn't occur as planned, either due to the discretion of the Administration, or due to the lack of interest of the citizen himself, which makes the plans most of the time inefficient.

Abranches¹⁹ states that despite the advances in urban planning practices, especially the politicized character of this proposal, popular participation hasn't yet received due attention.

In this sense, Maricato points out that²⁰ "the legal power of the federal executive over urban development, especially over its central aspect, which is the control over soil use and occupation, is very small" (*"o poder legal do executivo federal sobre o desenvolvimento urbano, em especial sobre seu aspecto central, que é o controle sobre uso e ocupação do solo, é muito pequeno"*) (our translation into english).

Brazilian cities are as they are, not for lack of plans and laws, but for political interests and cultural problems²¹, pointing to the 'urban illiteracy'²².

It's noted, therefore, the need for awareness by the population itself, regarding the development of a greater interest in the desires of their city so that the premises instituted by urban planning, the welfare state in the city are properly realized through public policies designed for dialogue between society and the Public Administration.

Concurrent highlight Reis and Leal²³:

For the citizen, it's very relevant that he knows and understands what is foreseen in the policies that affect him, who established its, how its were established, how its is being implemented, what are the interests at stake, what are the main forces involved, what are the existing spaces for participation,

18 BUCCI, Maria Paula Dallari. Democratic City Management (Gestão Democrática da Cidade). In. DALLARI, Adilson Abreu & FERRAZ, Sérgio. (Coords). Estatuto da Cidade (comentários à Lei Federal 10.257/2001). São Paulo: Malheiros, 2002, p. 322-341.

19 ABRANCHES, Mônica. Urban planning in Belo Horizonte: a new mapping of the city's problems in the view of the Municipal Councilors (Planejamento urbano em Belo Horizonte: um novo mapeamento dos problemas da cidade na visão dos Conselheiros Municipais). Belo Horizonte: Pontifícia Universidade Católica de Minas Gerais, 2007. p. 44.

20 MARICATO, Ermínia. The impasse of urban politics in Brazil (O impasse da política urbana no Brasil). 3ª. ed. Petrópolis: Vozes, 2014. p. 53.

21 MARICATO, Ermínia. The impasse of urban politics in Brazil (O impasse da política urbana no Brasil). 3ª. ed. Petrópolis: Vozes, 2014. p. 53-54.

22 Ermínia Maricato deals with "urban illiteracy", such as society's misinformation about the city's history and the municipal budget, alienation over the geographic and urban space in Brazil, factors that harm the city's sustainability. Idem. p. 54.

23 REIS, Jorge Renato; LEAL, Rogério Gesta. Social Rights and Public Policies. Contemporary challenges (Direitos Sociais e Políticas Públicas. Desafios contemporâneos). Tomo 8. Santa Cruz do Sul. EDUNISC. 2008. p. 2.308.

the possible allies and opponents, among other elements. (Our translation into english)

The active performance of society is fundamental for the efficiency of administrative performance, it's, shall we say, that a joint action, encompassing the trinomial: participation, efficiency and legitimacy.²⁴

This thinking means that: through 'citizen participation' acting in decision-making processes with the Public Administration, its become more efficient for the common good and legitimate, to the extent that its have had the intervention of society for its approval.

Thus, it's important to understand how this participation can stimulate in citizens not only the responsibility for the favorable results obtained, but also the collaboration with its conservation in the city plan, assisting in the proposition of public policies to improve men's life, enabling that the city fulfills its social function. So now we can proceed to the analysis of the Master Plan as a public policy for urban development.

3 THE MASTER PLAN AS A PUBLIC POLICY FOR CITY DEVELOPMENT

Initially, it's important to understand that public policies "are actions that the government takes in order to achieve the goals set and that will be carried out by the public authorities" (our translation into english) ("*são ações que o governo realiza com a finalidade de atingir as metas estabelecidas e que serão realizadas pelo poder público*").²⁵

For Reis and Leal²⁶ public policies are the result of politics, understandable in the light of institutions and political processes, which are closely linked to the more general issues of society, with emphasis on development and social inclusion.

Bucci complements²⁷ that policies are forged to achieve specific objectives, which make this – policies – differ from laws, that is, policies are propositions that describe objectives.

Public policies aren't, therefore, a category defined and instituted by law, but complex arrangements, typical of political-administrative activity, that the science of law must be able to describe, understand and analyze, in order to integrate in the political activities the values and methods specific to the legal universe.²⁸

24 PEREZ, Marcos Augusto. Society's participation in the formulation, decision and execution of public policies (A participação da sociedade na formulação, decisão e execução das políticas públicas). In: Políticas Públicas: reflexões sobre o conceito jurídico. São Paulo: Saraiva, 2006, p. 167-168.

25 SIQUEIRA JÚNIOR, Paulo Hamilton. Citizenship and Public Policies (Cidadania e Políticas Públicas). Revista do Instituto dos Advogados de São Paulo, vol. 18/2006, Jul. – Dec. 2006, p. 4.

26 REIS, Jorge Renato; LEAL, Rogério Gesta. Social Rights and Public Policies. Contemporary challenges (Direitos Sociais e Políticas Públicas. Desafios contemporâneos). Tomo 8. Santa Cruz do Sul. EDUNISC. 2008. p. 2.309.

27 BUCCI, Maria Paula Dallari. Public Policies: reflections on the legal concept (Políticas Públicas: reflexões sobre o conceito jurídico). UNISANTOS. São Paulo. Editora Saraiva, 2006. p. 25.

28 BUCCI, Maria Paula Dallari. Public Policies: reflections on the legal concept (Políticas Públicas: reflexões sobre o conceito jurídico). UNISANTOS. São Paulo. Editora Saraiva, 2006. p. 25.

Still for the same author ²⁹ "the ideal of a public policy is to result in the achievement of the social objectives (measurable) it has set itself; to obtain determined results within a certain period of time" (*"o ideal de uma política pública é resultar no atingimento dos objetivos sociais (mensuráveis) a que se propôs; obter resultados determinados, em certo espaço de tempo"*) (our translation into english).

However, it's also necessary to evaluate the programmatic character of the plan, of the policy, so that its objectives adapt to reality and, in this sense, Maria Paula Dallari Bucci³⁰ highlighted in her work the problem of the effectiveness of the so-called programmatic norms, in which one of its effects it's the prohibition on the omission of Public Powers in the realization of social rights.

Based on the study of the work "Applicability of Constitutional Norms" (*"Aplicabilidade das Normas Constitucionais"*) by José Afonso da Silva, Bucci³¹ highlighted that "the procedural law that sanctions omissions, enunciated in the Federal Constitution (articles 102, I, q, and 103, § 2º) would be one of the paths for the effectiveness of the programmatic norms, in view of the inertia of the Public Power in the initiative of the legislative or administrative measures necessary for the implementation of the law" (*"o direito processual que sanciona as omissões, enunciado na Constituição Federal (artigos 102, I, q, e 103, §2º) seria um dos caminhos para a efetivação das normas programáticas, em face da inércia do Poder Público na iniciativa das medidas legislativas ou administrativas necessárias à implementação do direito"*) (our translation into english).

Reis and Leal also point out³² that policies guide state action, reducing the effects of one of the constitutive problems of the democratic regime, which is the administrative discontinuity resulting from the periodic renewal of the governors, as each new government means some discontinuity, that is, the policies that were initiated and not ended in the previous government generally aren't effective, because for the new government this policies are no longer necessary, other objectives have emerged, leaving the needs that had been raised aside, forgotten.

On the other hand, it's understood that although it's widely recognized that administrative discontinuity leads to the abandonment of the current guidelines and also to the creation of others, generating a waste of political energy and financial resources, this situation isn't at all negative, because it allows innovations and advances.³³

The new times call for boldness to review positions and to innovate. The safest anchor for political innovation is to encourage cooperation between public and private agentes and civil society.

29 BUCCI, Maria Paula Dallari. Public Policies: reflections on the legal concept (Políticas Públicas: reflexões sobre o conceito jurídico). UNISANTOS. São Paulo. Editora Saraiva, 2006. p. 43.

30 BUCCI, Maria Paula Dallari. Public Policies: reflections on the legal concept (Políticas Públicas: reflexões sobre o conceito jurídico). UNISANTOS. São Paulo. Editora Saraiva, 2006. p. 28.

31 BUCCI, Maria Paula Dallari. Public Policies: reflections on the legal concept (Políticas Públicas: reflexões sobre o conceito jurídico). UNISANTOS. São Paulo. Editora Saraiva, 2006. p. 29.

32 REIS, Jorge Renato; LEAL, Rogério Gesta. Op. cit., p. 2.312.

33 REIS, Jorge Renato; LEAL, Rogério Gesta. Social Rights and Public Policies. Contemporary challenges (Direitos Sociais e Políticas Públicas. Desafios contemporâneos). Tomo 8. Santa Cruz do Sul. EDUNISC. 2008. p. 2.312.

In democratic terms, the authority of the State results from the collective will that is freely expressed and assumed by social participation and, therefore, public policies, represent the result of the exercise of power by an authority vested with public power and legitimacy.³⁴

In this sense, we can say that the Master Plan is an important instrument capable of preventing administrative discontinuity and favoring citizen participation in the search for better living conditions for the collectivity.

Hely Lopes Meirelles³⁵ conceptualized that:

The Master Plan or Integrated Development Master Plan, as it's modernly called, is the complex of legal norms and technical guidelines for the global development, constant of the Municipality, under the physical, social, economic and administrative aspects, desired by the local community. It must be the expression of the aspirations of the citizens regarding the progress of the municipal territory in its the whole city/countryside. It's the technical-legal instrument defined for the objectives of each Municipality and therefore with supremacy over the others, to guide all activity of Administration and Managers in public and private achievements that interest or affect the collectivity. The Master Plan must be one and only, although successively adapted to the new demands of the community and local progress, in a perennial process of planning that realizes its adaptation to the needs of the population, within the modern management techniques and resources of each City Hall. The Master Plan isn't static; it's dynamic and evolutionary. In setting objectives and guiding the development of the Municipality, it's the supreme and general law that establishes priorities in the achievements of the local government, conducts and orders the growth of the city, disciplines and controls urban activities for the benefit of social welfare. (Our translation into english)

In Brazil, urban planning, in general, doesn't always achieve these objectives, either due to the lack of coordination of actions, the lack of effective controls over the agents, the inability to overcome the political and economic conflicts inherent in urban development or due to excessive rigidity on the setting acceptable standards. Changing this situation is, therefore, a challenge for the municipal administrators.³⁶

Through the Master Plan, the Public Administration must be subject to the approval of society on the actions to be taken. This instrument is characterized as the most latent manifestation of the democratic management of a city.

At this point, urban planning by the Municipality is fundamental, in order to guide public policies to mitigate these negative consequences, which must be built with popular participation, in search of the common social good.³⁷

34 FADIGAS, Leonel. Urbanism and Territory: Public policies (Urbanismo e Território: As políticas públicas). Edições Sílabo. 1ª Edição – Lisboa, April, 2015. p. 13.

35 MEIRELLES, Hely Lopes. Brazilian Municipal Law (Direito Municipal Brasileiro). Malheiros. 13. ed. São Paulo: 2006. p. 538-539.

36 D'ANDREA, Catherine. The City Statute and the Planning of Transportation and of Circulation (O Estatuto da Cidade e os Planejamentos de Transporte e de Circulação), 2004. Available in: http://redpgv.coppe.ufrj.br/arquivos/'Andrea_UFSCar2004.pdf. Accessed on: January 1, 2020.

37 PERES, Renata Bovo. Regional and urban planning and the environmental issue: analysis of the relation between the Tietê-Jacaré watershed plan and the municipal master plans of Araraquara and São Carlos, SP (O planejamento regional e urbano e a questão ambiental: análise da relação entre o plano de bacia hidrográfica Tietê-Jacaré e os planos diretores municipais de Araraquara e São Carlos, SP). 2012. Available in: <http://www.sustenta.ufscar.br/arquivos/teses/teserenatabovoperes.pdf>. Accessed on: January 1, 2020.

In the analysis of the creation of public policies, it's very important that analysts are neutral and aware of the risks of anchoring their work in neoliberal and anti-state assumptions, which advocate the adequacy of public administration to market values and to the dictates of private administration and because this we see the importance of participatory inclusion in the elaboration of these policies.

In the urban plan, we highlight the Master Plan for constituting the complex of legal norms and technical guidelines that aim at the global and constant development of the Municipality, under the physical, social, economic and administrative aspects, desired by the local community, which is expressed by the mandatory popular participation in its formulation, it's important to highlight this democratic prevalence, in the sense that: where there is the participation of the people, there is citizenship, freedom, justice.

Silva and Júnior³⁸ they understand that in order to congregate in the political and decision-making life of the State it's important to find mechanisms for popular participation, that there is space for representation, technique and management and, above all, space for the citizen who must also be concerned with 'public things'.

Thus, the Master Plan stands out as an important instrument capable of promoting this space to the citizen, of dialogue on decision-making with the Public Administration.

However, what is verified by the urban planners is that the norms elaborated in the Master Plan do not leave the paper and that in reality the citizen's participation covers only specific groups formed by the government, in its interest, masking the real democratic management that should exist.

The legislation is strict in the sense of mandatory participation, but as Maricato³⁹ puts it, the Master Plan "offers a discourse of good intentions, but far from practice" ("*oferece discurso de boas intenções, mas distante da prática*") (our translation into english).

Maricato⁴⁰ also notes that it doesn't matter just a normative plan, which is exhausted in the approval of a law, but that is committed to a process, a domain of democratic management, to rectify its course, an operational domain, with established investments, with actions determined and inspection.

In order to register the real situation that happens with citizen participation in the Master Plans, Maricato exposes:⁴¹

(...) it isn't for lack of urban plans that Brazilian cities have serious problems. It's also not, necessarily, due to the poor quality of these plans, but because its growth takes place outside the plans approved by the City Councils, which follow traditional interests of local politics and specific groups linked to the government on duty. (Our translation into english)

38 SILVA, Juvêncio Borges; JÚNIOR, Natal dos Reis Carvalho. DEMOCRATIZING DEMOCRACY: popular participation as a means of overcoming obstacles to democratic consolidation in Brazil (DEMOCRATIZAR A DEMOCRACIA: participação popular como meio de superação dos obstáculos a consolidação democrática no Brasil). Revista Humus, vol. 7, nº 20, 2017. Available in: <http://www.periodicoeletronicos.ufma.br/index.php/revistahumus/article/download/6786/4844>. p. 69. Accessed on: January 5, 2019.

39 MARICATO, Ermínia. Ideas out of place and the place out of ideas. Urban planning in Brazil (As ideias fora do lugar e o lugar fora das ideias. Planejamento urbano no Brasil). In: A cidade do pensamento único. 8ª. ed. Petrópolis: Vozes, 2013. p. 124.

40 MARICATO, Ermínia. Brazil, cities: alternatives to urban crisis (Brasil, cidades: alternativas para crise urbana). 7. ed. – Petrópolis, RJ: Vozes, 2013.

41 MARICATO, Ermínia. Op. cit. p. 124.

However, citizen awareness is an extremely important factor for the effectiveness of the application of urban planning and the consequent improvement of living conditions, preventing the manipulation and arbitrariness of the Public Administration, forging a false participation of the citizens in the elaboration of the Master Plans of their cities, and consequent rules for improving the lives of their residents.

Encouraging participation must come from society, but it must also have the support of the State.⁴²

The State must encourage popular participation and not simulate this situation as we observe it to be happening, taking advantage of the lack of interest or, better said, citizen disbelief.

From the analysis, we can see that we have a vast normative apparatus capable of realizing the fundamental and social rights of citizens, promoting the ideal division of the soil/land, reduction of social inequalities, balanced environment, in short, cities with better living conditions for residents.

The Master Plan is a public policy of extreme relevance, an urban framework and, if properly prepared and implemented, it's able to help a lot in the development of the city.

It's necessary to raise the interest in the population about the desires of their city, combating the disinterest, the disbelief, the "urban illiteracy". The citizen needs to understand that he has instruments that provide him with possibilities to combat administrative discretion and to promote the proper urban development in his city.

4 CONCLUSION

Brazilian cities, in general, increasingly experience degrading situations with regard to urban problems, caused in large part by the rapid occupation and by the lack of urban planning or even by the failure to implement plans.

The disorderly development in cities, without the proper urban planning or, as already mentioned, their failure, justified by the discretion of the Public Administration coupled with the population's lack of interest or disbelief in the demands and desires of their city, has been favoring numerous problems of a nature social.

The purpose of urban planning is to formulate, to define and to promote strategies for social and environmental changes, decent living conditions for humans, guiding the development of the city.

In order to better ensure these premises and after facing many barriers, with the arrival of the Federal Constitution of 1988, a great milestone was established for Brazilian democracy,

42 SILVA, Juvêncio Borges; JÚNIOR, Natal dos Reis Carvalho. DEMOCRATIZING DEMOCRACY: popular participation as a means of overcoming obstacles to democratic consolidation in Brazil (DEMOCRATIZAR A DEMOCRACIA: participação popular como meio de superação dos obstáculos a consolidação democrática no Brasil). *Revista Humus*, vol. 7, nº 20, 2017. Available in: <http://www.periodicoseletronicos.ufma.br/index.php/revistahumus/article/download/6786/4844>. p. 69. Accessed on: January 5, 2019.

ensuring citizen participation in the concretization of the Democratic State of Law, listing in several of its provisions the obligation of this principle.

Within the framework of the 1988 Constitution and the profound redemocratization of the State and Society that it proposed, norms and policies flourished from a complete review of the city's legal and political understanding. Urbanists and jurists were taken with great enthusiasm from the recognition of the right to the city as a fundamental right, in light of which the City Statute was edited and interpreted with its promises of citizen participation in offering, to everyone, of the conditions for 'live well' in the city.

The City Statute listed numerous mechanisms for urban improvement and enshrined the participatory principle, that gained strength when it was treated as a mandatory element in the elaboration of the Master Plans.

However, even with advances in democratic institutions, unfortunately, we see the deepening of inequalities and the degradation of urban life. Failures in the implementation of the Master Plans driven by political interests and lack of democratic participation by the local population, to the detriment of the strong influence of economic groups, among other issues that are diagnosed today as the major challenges to the realization of the fundamental right to good urban order in Brazil.

It's important to understand that the direct participation of the people in urban decision-making is extremely important for the city to fulfill its social function, but this reality hasn't yet reached the necessary levels of interest. We can see that there is a certain lack of interest, disbelief and even a lack of knowledge about the importance and need for the citizen to participate actively in the acts of public life.

It was demonstrated that the legislation is abundant and guarantees this participation in public management, but still ineffective, making necessary to raise the population's awareness of the importance of their knowledge of the and about the plans and policies developed and to be developed in their favor.

Urban planning is an essential factor to reduce discrimination and social inequalities, making human rights effective and making common interest prevail over the particular; and this reasoning is legitimized by the obligation of the citizen to participate in the elaboration of the plans, passing on to the Administration their needs and desires, starting from the premise that 'who knows more about the problems and needs of the population is the citizen himself'.

A The Federal Constitution of 1988 and the City Statute listed important urban planning instruments in order to guarantee an adequate urban development. The participatory inclusion in the elaboration of the Master Plan stands out for the development of democracy in Brazil, guaranteeing the concretization of the social function that the city must fulfill.

At this point, it's worth noting that the Master Plan promotes participation and institutes citizenship and democracy, having in its guidelines norms capable of providing better living conditions and dignity to the population, regularizing housing, reducing social inequalities, avoiding problems such as slums, impoverishment of part of the population, misery and delinquency, due to the poor distribution of income, real estate speculation and the absence of agrarian reform, concerned with the environment and the development of the city.

It demonstrated the important role of the participation of the population imposed for the elaboration of the Master Plans and the need for the people to become aware about the public actions and to actively participate in decision-making.

However, it was also highlighted that popular participation hasn't yet received due attention and that factors such as disinterest or disbelief, or even what scholars call "urban illiteracy", prevent this principle from fulfilling its role, favoring the discretion of the Public Administration which takes advantage of this situation, of non-interaction and non-monitoring by the population, and ends up failing to comply with the urban planning instituted by its Master Plan, causing numerous social problems to the population.

However, the importance of the principle of participation being realized in urban planning is notorious, so that state activities are inspected, monitored and the population benefits from approved public policies.

Urban public policies need to get off the ground and, for that, the population necessarily needs to be aware. The Democratic State of Law is made in a joint action between society and the State.

Finally, having demonstrated some problems faced in participatory inclusion, we can conclude that its foundation is the future for a better life. The city needs of the popular participation. Citizens need to exercise citizenship and the democratic power granted under the Federal Constitution. As a result, it is possible to make public policies for urban development leave the paper and exercise their function, be properly implemented and improve the living conditions of the citizen.

With the democratic perspective imposed on planning, the State should not / can act alone, it's necessary for popular participation to be radicalized and the civil society to be qualified by promoting the organization and elaboration of proposals and strategies to intervene and to improve the city.

It's necessary to recognize the instruments created and guarantee their effectiveness, and the Master Plan presents itself as a strong instrument of promotion for the sustainable development of cities, fully capable of promoting the overcoming of social inequalities, supported by the imposed popular participation in decision-making, aiming at the promotion of effective public policies to the fulfillment of an adequate urban planning, which orders the territory and reduces social inequalities, ensures the fair distribution of urban infrastructure and services and the principles of human dignity and the citizenship, fulfilling the social function of the city, really configuring the Democratic State of Law proposed in our Constituent.

The guarantee of its proposals and perspectives, as already described, depends on a joint action of society with the Public Administration. The formulation of a political project anchored by participation, legitimized by the demand and the commitment of civil society in the proposition of public policies, advances towards the constitution of a collective subject and an effectively political project for society.

Considering the aforementioned analyzes, it's possible to believe more and more in the potential of participatory structures in search of collective improvements and as outlined, the importance of this principle in the urban sphere to guarantee the realization of fundamental rights and the fulfillment of the social function of the city for the collectivity.

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