



Land Tenure: Property Social Function and the Right to the City in Brazil

Camila D'OTTAVIANO, Prof. Dr.
University of São Paulo, Brazil
camila.dottaviano@gmail.com

Sérgio QUAGLIA-SILVA, Assistant Professor
University São Francisco, Brazil
slqsadv@gmail.com

Land tenure is an important contemporary challenge for Brazilians architects, planners and public managers. It is also the pursuit of the right to the city in the urban context of developing countries. This paper will analyze some results and issues of Brazilian new legislation, specially the legal and administrative advancements, and the importance of the concept of the Social Function of Property in Brazilian urban policy and in land tenure processes.

The growth of the Brazilian cities during the second half of the 20th century occurred in such a way that two distinctive cities came into existence: a regularized, legal city, characterized by official (legalized) parceling of the land, usually located at more central areas, intended for the middle and upper classes; and an illegal city, created to accommodate the lower classes, characterized by illegal subdivisions peripherally located or the shanty towns, the Brazilians favelas, usually located closer to the heart of the cities.

Several studies about habitation and land tenure observe the importance of the concept of "social role of property" as defined by the City Statute (2001). The expectancy is that these new policies of land tenure take into consideration urban and social issues in order to improve the quality of life of these residents.

Although Lefebvre (2001) considers that land ownership in itself does not represents or guarantees the right to the city, the great concentration of irregular settlements in the Brazilian cities makes land tenure an important instrument to access the legal city and ownership security. Nevertheless this is not a consensus among experts.

De Soto (1987) was the first one to defend that land tenure helps include the marginalized population in the formal economy market and that a vast land tenure program should be carried out at poor housing areas.

On the other hand, Marcuse (2008) defends that the best way to guarantee land possession is by means of political actions and not through legal recognition.

The individual property right gives the land only a mercantile exchange value, which did not solve the enormous Brazilian urban, social and environmental problems. Considering land tenure as a way to access housing, legal property and better living conditions, some important questions arise:

- How can we enable regularization to be implemented in all different and numerous informal settlements in Brazil?
- Does land tenure really improve life quality of its inhabitants? For instance, after the land tenure programs are completed, the price of the land will surely increase. Then won't the real state formal market discard the original population from the neighborhood?

Divergent views of the question are important to discuss the right to the land and housing possession at Brazilian cities. They reassert the urgent need to search for more just and efficient solutions and instruments to confront housing illegality and the precariousness of our cities, with the hope to guarantee the right to the city to all its inhabitants.

KEY WORDS: Land tenure, urban regularion, right to the city.