

'SOCIO-ENVIRONMENTAL CONFLICTS: ENVIRONMENTAL LAW AS AN INSTRUMENT FOR LEGITIMIZING THE ACTIONS OF PUBLIC AUTHORITIES AN INTERVENTION IN JARDIM ICARAÍ, CURITIBA, PR

ROSIRENE MARTINS LIMA²
JOAQUIM SHIRAISHI NETO³

Introduction

Socio-environmental conflicts are frequent in Brazilian cities due to the illegal occupation of conservation units. The environmental discourse is used to justify actions by stating that the environment is “natural”, in contrast to the exceptional force of the city which expands “regardless of nature” and ends up by engulfing it. Spatial planning policies are part of this “struggle against the city” and aim to protect “natural areas” in order to guarantee a “better quality of life” in the city for present and future generations. This vision of socio-environmental conflicts separates society from nature, while debates on conflicts involving environmental issues have served to perpetuate the dualism between man and nature (FLORIANI, 2004).

This point of view supposes that socio-environmental conflicts occur because of the competition for natural resources. That is, they involve relations of ownership and appropriation and are inscribed within a context of exchange relations. Thus, when these conflicts involve those who are frequently described as low income populations - or the so-called “poor” - a single aspect exclusively predominates, namely, material issues.¹

The struggle for these resources is important. However, socio-environmental conflicts involve more than just this aspect. Acselrad argues that when socio-environmental conflicts are observed exclusively from the economic point of view we cannot move away from market categories, even though it is acknowledged that these struggles lie between the social boundaries of the market and the non-market (ACSELRAD, 2004a). Analyzing

1.

2. Ph.D in Development and the Environment. Professor in the Social Sciences Course at Uema E-mail: rosirenelima@uol.com.br.

3. Ph.D in Law Visiting Professor at UFMA, associated to the Post-Graduate Program in Law. Researcher at the Fapema [State of Maranhão Research Foundation] and CNPq [Brazilian National Council for Scientific and Technological Development] Productivity 2 Grant. E-mail: jsiraishi@uol.com.br.

socio-environmental conflicts as phenomena involving only the use and the dispute for natural resources reduces them to the material dimension. In other words, social-environmental conflicts are reduced to the appropriation and use of natural resources, excluding all subjective content, disregarding the dynamics of the social process which generates a particular model of society.

By restricting the notion of socio-environmental conflicts to a single aspect, actions and acts also become simplified and authoritarian. In order to avoid this outcome, it is imperative to take into account the different agents involved, their diversity and different forms of representation, as well as their relationship with the environment and the different types of projects and interests at stake. When Acselrad analyzes socio-environmental conflicts based on Bourdieu's concept of field, he displaces the debate away from the level of ideas, that is, from an "environmental ideal", to the level of social relations, involving all manner of contradictions and conflicts.

When analyzed from this perspective, environmental issues bring a number of social practices to the centre of the debate. Thus, the notion of the environment is relativized and is no longer considered unilaterally and the complexity of situations presented and experienced by the different social agents involved is also considered (ACSELRAD, 2004a).ⁱⁱ In this way, the type of analysis suggested by Acselrad enables us to capture socio-environmental conflicts whilst embracing the complexity of the subjects involved, situated within the field of social relations and a specific space.

Thus, the aim of this work is to analyze socio-environmental conflicts involving the municipal authorities and the residents of Jardim Icaraí, in Curitiba, state of Paraná (PR), Brazil. Whilst Law, in particular Environmental Law, governs and provides legitimacy to the municipal authorities' actions, Jardim Icaraí residents have, so to speak, a right to the city. Therefore, this study will initially address Environmental Law as an instrument for producing, disseminating and spreading the "official conception" of the environment. It will subsequently analyze the public authorities' intervention plans for Jardim Icaraí which are linked to other urban policies for the municipality of Curitiba and whose main objective is to make the city more suitable for competing in the "market of cities".

The legal construction of the environment

According to Eric Hobsbawm (1996), the profound transformations undergone by society in the last decades have resulted in the questioning of "traditional political models" organized around universal banners capable of addressing the needs of society. However, "left-wing universalism" proved incapable of incorporating the specific demands of certain social groups, leading individuals to unite around their own common interests. This intensive process led to the emergence of the so-called "new social movements" (HOBSBAWM, 1995). However, Hobsbawm draws attention to the fact that the only banner capable of uniting these movements is the ecology movement (HOBSBAWM, 1996), although he did point to its poor transformational capacity.

Hobsbawm's theoretical efforts to understand the ongoing social dynamics leads us to reflect on the strength of the ecological banner. It has proved to be an "efficient"

instrument for social cohesion, above all because issues relating to the environment have been treated as a “natural” element. After all, no one can be opposed to the ideals of environmental preservation, defence and protection. The “environmental issue” is inscribed within a historical process of development of new social phenomena. That is, it is a “new social issue” described by Lopes as the “process of environmentalization” (LOPES, 2004). He argues that the environmental dimension is incorporated into social discourses and practices.

The historical process of constructing and incorporating the “environmental problem” as a “social problem” results in the transformation of both individuals and the State itself which start to consider issues not previously considered relevant. Societies elaborate a set of social problems considered legitimate and worthy of discussion which, for this reason, are then considered public problems. Fuks highlights that “environmental problems” are defined within the public space through debate and action (FUKS, 2001). This is the space for struggles where a plurality of visions is observed. He, nevertheless, argues that the diverse conditions in the participation of different individuals lead to differentiated results (FUKS, 2001), in particular in questions of environmental rights, as they involve the law itself.

In the specific case of defining the “environmental problem” as a “public problem”, it is important to highlight the role of Environmental Law,ⁱⁱⁱ which produces and disseminates the “official” discourse on the environment. The Environmental Law discourse has proven to be extremely efficient in organizing social relations and, for this reason, has been employed by different entities^{iv}, including the State, to justify their policies and interventions.

The symbolic effectiveness of these mechanisms relates to the way the concept of the environment operates and is organized, that is, the idea that nature is a common good belonging to all members of society without distinction. The aim of this study is to analyze this process whilst not considering it as natural, as in the case of the discourse used and disseminated in Environmental Law. Moreover, the notion of the legal field, an idea borrowed from Bourdieu, also serves to displace the debate from the theoretical level to that of social relations.

At the beginning of the 1980s, environmental issues became a “social problem”, deserving a new legal formulation. However, this formulation was set within the “traditional legal schemes”, although there have been attempts to move it in a different direction. Law presents an image of belonging to the whole community, but in fact it represents interests which are often concealed behind a cloak of universality. Given this universality, those who interpret law are left to “uncover” it.

The overwhelming majority of individuals, including “legal operators”, have an enormous difficulty in distinguishing between the notions of rights and justice. For those involved in law, there seems to be no distinction. In this way, “law is idealized” and becomes “exempt” from or immune to social and political contexts. The result is that the social phenomenon is always distant from law. This distancing of law from the surrounding social world means that discussions about law occur at the theoretical level, where it is presented as divested of all values. In other words, if any values at all can be attached to

law, this value is justice. This “confusion” between the notions of law and justice has had a profound impact on our interpretation of all aspects of law, including Environmental Law. For example, it is thought that the law is there to assist all individuals regardless of their status.

In fact, this way of generally understanding law has had the effect of “concealing” the interests that may be at stake. In the specific case of Curitiba, Environmental Law, incorporated as discursive practice by the municipal authorities, has proven to be an important instrument for ensuring the efficiency of urban policies whose aim is to displace “undesirable” individuals to other urban spaces in the city.^v Environmental mechanisms have been developed and incorporated into urban policies without criticism. These policies have caused conflicts with a number of individuals who, in most cases, fight over the same fragment of the city. In this way, Environmental Law has become a powerful urban policy tool, given it enables the re-organization of “disorder” caused by the inappropriate use of natural resources.

It is important to note that Environmental Law is used as a basis for elaborating provisions, most specifically because it combines the concept of justice with another concept which also refers to citizens indistinctly, namely, the concept of the environment as a “common use good”. The main clause of article 225 of the Brazilian 1988 Federal Constitution states that “Everyone has a right to an ecologically balanced environment, **a common use good belonging to the people** and essential to a healthy quality of life which the State and society as a whole have a duty to protect and preserve for present and future generations” [our highlight].^{vi} The assertion that the environment is a “common use good belonging to the people” is based on the premise that everyone has the same understanding of the meaning of environment and that there are no controversies, since it is in the common interest of all citizens to preserve and protect the environment.

It is also worth highlighting that “a common use good belonging to the people” is further qualified by the expression “healthy quality of life”, emerging as a necessary complement within a vision steered not only by material, but also spiritual and cultural aspects, in as much as these contribute so that individuals can develop to their maximum potential (DERANI, 1997). According to Derani, “quality of life” is the utmost objective of Environmental Law (DERANI, 1997) and is the guiding principle of all actions related to the environment.

In this way, we point to an entire lexicon of concepts associated to the environment which have been incorporated to the environmental law discourse without any criticism. It is also important to highlight that these concepts are meant to address all social phenomena. This is, indeed, the universalist claim of Environmental Law, providing, in this case, an enormous range of possible interpretations and a large degree of arbitrariness.

It is important to stress that, according to Bourdieu (1989), the juridical field is the site of a “competition for the monopoly of the right to determine the law”. Understood thus, the field of Environmental Law becomes an arena for the struggles for the right to determine the law, given that preferred notions are displaced from social problems.

Understanding “environmental problems” as “social problems” involves a differentiated process encompassing a variety of interpretations of the environment. Environmen-

tal Law and its mechanisms reflect this process which still exists as part of a very particular dynamics, albeit not displaced from the mainstream encompassing its own interpretation of the environment. Despite all intentions of the Law to treat environmental interests as normal, it is worth highlighting that they are different and that, for this reason, cannot be diffused as interpreters of the law would like - another concept dear to Environmental Law.

We, therefore, are faced with a type of Environmental Law which mirrors the understandings that “authorized” and “legitimate” interpreters have about the environment. Its strength is found in “daily practice” when it is able to organize and classify the social world. Note that Environmental Law mechanisms have proven to be an effective means of implementing Curitiba’s urban policies. That is, on the pretext of protecting and defending the environment, municipal authorities have managed to put into practice their objectives, associated to interests involving the construction of a certain type of city. Within this context, it is important to analyze urban intervention projects in the city of Curitiba incorporating a universalist environmental discourse which has resulted in negative outcomes for particular groups of residents.

The analysis of an urban intervention plan in Curitiba: Jardim Icaraí

The municipal authorities’ intervention in Vila Audi União^{vii} relates to what has been called the Urbanization of Vila Audi União. This project includes a number of specific actions such as flood protection works, the building of a protection dam, the legal recognition of some occupied areas and the relocation of others, the building and paving of roads and basic infrastructure works.

Planned changes with regard to Jardim Icaraí, part of Vila Audi União, sought to permanently settle some of the families in the area and move others for re-settlement somewhere else. Thus, according to data from COHAB [Metropolitan Housing Company], out of a total of 752 households in Jardim Icaraí, 295 were to be relocated. The authorities justified their plans by alluding to the existence of risks in the area.

The Municipal Authorities rolled out its plans, disregarding the participation of those involved in the process. It ignored the motives alleged by the residents who stated that Jardim Icaraí is not in a risk area. The documents consulted relating to municipal action and “intervention” in the so-called “Vila Audi União Bolsão”^{viii} interpret and analyze the conditions of the families living in the area for many years and reveal a certain uniformity. A fact that also emerges from the socio-economic data collected, for example, to provide a historical background to the occupied area. The same criteria are used throughout so that the whole study group can be analyzed.

Most families have been in the area for over ten years^{ix}, forming peaceful and uninterrupted settlements, not opposed in any way, except by the municipal authorities. The local government has already “relocated” a number of families which led to a series of protests involving those that believe they will be removed imminently and are not sure they will be sent to an area close to Jardim Icaraí or as far as Sambaqui, the relocation site of the first resettled families. Since the 1980s, when the Special Social Housing Sector (Sehis) was established which foresaw the development of housing complexes by Cohab,

the tendency has been mainly to concentrate “problem families” in distant and restricted areas, in particular, in locations far from the city centre.

It seems that there is a tendency to “ghettoize” part of the population, resulting in negative outcomes such as “territorial stigmatization” by the general population and local authorities. The social strategies of the municipal government lay open the principles behind the vision and the division in the minds and practices of public administrators,^x shaped in accordance to the political project in force.

The designated term used for classifying the area - “Bolsão” - (pocket in Portuguese) in itself reveals the degree and intensity of prejudices embedded in the “diagnosis”^{xi} - the name given to the studies conducted by the municipal authorities. Indeed, the term “diagnosis” used to justify the “immediate need” and the “preliminary” nature of data collection, also represents pre-conceptions about the area and resident families, given that “diagnosis” is a very common term used in the medical sciences, usually to designate the process that describes an illness, as well as the procedures adopted to cure patients.

Families found in the situation diagnosed are seen as a “disease” requiring government action and intervention, since their presence is seen as detrimental to Curitiba, according to the Land Regulation Plan (2006, p. 71). Thus, it is important to understand how the municipal authority’s action and intervention process for this area was conceived. What do the families living in these areas represent for the municipal authorities? In other words, are these families in any way relevant for the projected city?

The makeup of the team in charge of carrying out the “Land Regulation Plan in Permanent Preservation Areas (APPs)” is revealing. It consists mainly of “architects and urban planners” who have a very particular vision of the city. After all, these are the specialists who have systematically conceived and intervened in Curitiba. Not wanting to prejudice the technical skills and abilities of these professional bodies, we note that the plan is restricted to the formal aspects of the intervention process. That is, the manner in which it will be conducted is perfectly in line with the way Curitiba has been planned in recent years. For these professionals the problem could be summarized as a lack of or a need for housing. These specialists, “tied” to their technical instruments, cannot see that housing is but one factor in the makeup of an area which has a number of complex dimensions above and beyond this issue.

Thus, they do not understand the argument of many residents, considered irrational, when they say that they do not want to be re-located and are happy where they are. The notion of place used here helps us to understand this point of view, given it encompasses a set of factors which are not always palpable or visible, but which are significant for making definitions. “A place retains a practical-sensitive, real and concrete significance” (CARLOS, 2001, p. 34). Only in a place can people use their strategies to guarantee their physical and social reproduction. When the logic of the city supersedes the logic of social reproduction, people become instruments and, in this way, ‘living’ is negated (CARLOS, 2001, p. 220).

The definitions of housing^{xii} set out by experts who insist on describing the weakness and fragility of buildings, even when seeking to identify cultural roots, cannot express its real meaning. Thus, the families “relocated” to Sambaqui return to Jardim Icarai. It is also

important to analyze the mechanisms used by specialists to think about the Jardim Icaraí situation because, embedded in the intervention, is the perception and interpretation of the process as “natural and inherent to the urbanization of Curitiba: “The explosive growth of Brazilian metropolises surrounded by poverty belts...” (PREFEITURA MUNICIPAL DE CURITIBA, COHAB, IPPUC, 2007, p. 72).

Most of the demographic data used in the analysis conducted by the local government are inadequate; mechanisms rely on categories and classifications that cannot capture the dynamics of social processes underway, which have become extremely complex. Even statistical data associated to what is known as “socio-economic characteristics” are problematic, as their purpose is to statistically verify facts such as the number of employed residents, how many have formal jobs or an analysis of family income. The fact that these residents do not “fit” into the census categories turns them into outsiders within the universe under analysis. This is because when ‘employment’ criteria are not well understood, they serve only to stigmatize residents and their families. After all, how can they want live in a city if they do not have the healthy habit of working?

In this way, the residents’ life histories are completely disregarded, despite the fact that they were able to re-organize their lives on a daily basis in order to achieve physical and social reproduction. Similarly, we observe the need to reflect on the analysis tools employed which are situated within a particular frame of reference. In other words, analytical tools are part of a system of thought which is strongly marked by a particular conception of the world, within a particular conception of the city where the situations observed must fit within a model of thinking established *a priori*.

If we really want to understand the situation of the families occupying ‘illegal’ areas, it is important to go beyond the generic mechanisms and forms which make them intelligible, particularly when associated to particular historical matrices of thought (WACQUANT, 2001). Wacquant continues by arguing that it is essential to develop more complex and differentiated images to understand the existence and the fate of these families (WACQUANT, 2001, p. 7-8) which amount to more than simply their lack of or need for housing. What is at stake is not only “finding” a place to live permanently. Within the context experienced by these families, it is almost impossible to imagine that the observation of localized situations, marked by complex social relations, can lead to only one action plan.

The notion of poverty which is used to refer to the families subjected to the situations diagnosed should be examined, given that poverty is an important factor for understanding the intervention proposal underway in which the municipal authorities are the only protagonists, despite legal instruments guaranteeing people’s indiscriminate participation. Paragraph 3, Article 4 of Law n. 10.257, 10th July 2001, the so-called Statute of the City, highlights that the participation of “communities”, “movements” and “civil society organizations” must be guaranteed in discussions involving urban policy mechanisms. The conception of poverty indiscriminately used by the government to explain the situation of families focuses initially on their inability to guarantee their own physical and social reproduction. At the same time, this conception is underpinned by another notion: that people subjected to policies are incapable of managing their own

futures. Therefore, it is perfectly acceptable to “misuse” people’s discourses, as they are seemingly incapable of using them themselves.

Despite the fact that the inappropriate use of terms and instruments by the local government for analyzing the situation of the so-called “illegal occupation” does not determine the form and mode of intervention, they nevertheless reveal positions and postures in face of the realities experienced. The local government’s authoritarian posture has consequences which are expressed in terms of an acute conflict with the families residing in Jardim Icaraí. At stake here are the different representations and interpretations of the ‘city’ and, in particular, the ‘environment’.

Specific features used to explain the situation of the “Bolsão” families - and others in similar situations, also targeted by municipal urban policies^{xiii} - are a good illustration of the attempt to attribute to the area and these groups certain characteristics which are important elements for urban intervention. The fact that Jardim Icaraí is located in the social periphery of the city would have been sufficient to justify any action, added to which the local authorities’ discourse is renewed by incorporating other elements, including those specifying “behavioural” situations resulting in “urban violence” and ecological problems associated to a process of “environmental degradation”. This is frequently used to explain the reasoning behind this policy, the “Land Regulation Plan for Permanent Preservation Areas”.^{xiv}

Moreover, it is worth highlighting the development of a number of mechanisms regarding the environment whose aim is to “resolve” issues relating to nature on a case-by-case basis. For example, at least four^{xv} legal instruments can be applied to the Jardim Icaraí area, not to mention a number of separate federal and state laws which together make up a tangled web of mechanisms, on the whole difficult to understand. It seems that the government is very concerned with legal instruments which allow people to distinguish between the legal and illegal conceptions^{xvi} imbricated in this model of the city.

In a situation interpreted as illegal by the local authorities, the residents’ plight stands out at different moments of their daily lives. They are treated apprehensively, in particular because, given the illegality of their situation, they are constantly humiliated to the point that their own existence is negated. Although the public authorities may deny this fact, the illegality experienced by the “Bolsão Audi União” residents is the product of a process whose objective is to organize the city according to pre-established interests, not always openly expressed. Total deprivation, that is, the complete absence of the State, reveals a lack of interest on the part of authorities, if not a lack of administrative capacity. Thus, situations such as that of Jardim Icaraí are typical of how the State acts, mainly reflected in the condition of an area where property developers are discouraged to move in, even when there are no impediments.

In these seemingly inhospitable places, the authorities have shied away from their main objective of ensuring “good and safe” conditions. Thus, as Mendonça argues, they become an “elitist structure which only benefits a small portion of the population” (MENDONÇA, 2004). The reconstruction of this problem reveals the public authorities’ lack of ability to reflect on the urban policies adopted during the last decades. This

is an important activity which should be incorporated to analyses concerning the city's development, as well as a useful tool to think about the configuration of environmental conflicts in the city.

The analyses which permeate government documents appear more as "accusations" made against the area and the families living therein, given that those who illegally occupy environmental protection areas are made liable in all situations. However, in the case of Jardim Icaraí, the recovery of areas completely abandoned subsequent to preceding mining activities was carried out by the families themselves. Alluding to Wacquant, it can be seen that the "nature" degradation discourse has rekindled Malthusian ideas in which poverty is the result of poor people's personal incapacities (WACQUANT, 2001). It is as if these families, just by being poor, are totally incapable of attitudes which are deemed worthy of consideration, thus revealing all extant pre-conceptions. For many decades, the urban policies in Curitiba have been majorly responsible for the segregation of part of the population which was sent "out" of the city (OLIVEIRA, 2000; MOURA, 2001; PEREIRA, 2002). The fact that these citizens represent a "threat" to the projected model of the city turns them into the "objects" of a set of social policies whose aim is to keep them permanently "away" from the city.

Within these processes, the environmental question stands out. It has been incorporated and "updated" into the practices of the municipal authorities, as can be seen from current discourses which, as well as citing preservation and protection, also highlight the role of conservation units in the maintenance of biodiversity. In the context of this article, the analysis has been structured based on the following dilemma: the conceived city, or the city we want, *vis-à-vis* the city under construction. The conflict between the different forms of representing and interpreting the city and the environment is clear from interviews with Jardim Icaraí residents. These contrast with interpretations made by the local authorities, as specified in documents relating to the process of occupation and use of the Iguaçu Environmental Protection Area.

The type of problem resolution adopted and the legislation cited to steer government actions and interventions have been contested by some residents who also expressed concern for environmental problems, given that any action can negatively affect their extremely vulnerable lives. Thus, they oppose the arguments put forward by specialists who claim that the set of legal instruments set out^{xvii} have served to minimize the effects of occupations which are damaging to the environment. The range of legal instruments, which make this occupation peculiar, represents a specific form of understanding nature where preservation and conservation factors stand out.

Brazilian Environmental Law imported a particular type of "nature ideal" which is rooted in a strongly preservationist and conservationist ideology expressed in the concept of the "modern myth of pristine nature". It is important to recall that environmental legislation and the Law must be perceived from the point of view of the relations established within the juridical field where issues relating to rights are equally fundamental and oppose one another: the right to housing of families who already occupied the area *versus* the right to the environment. Discussions, therefore, have to move towards resolving the problems at hand. In order to do so, it is important to clarify the interests at stake,

above all, when these are “shaded” or concealed by a type of discourse which purports to be true and universal.

What can be seen thus far is that the conflicts described involve different elements and forms of understanding and positions relating to the appropriation of the Jardim Icaraí area. The discourses adopted for solving these problems, initially set within the environmental sphere, encompass differing positions. Whilst the authorities base their actions on legal instruments, the Jardim Icaraí families rest their environmental discourse on their day-to-day practical experience. Over and above the socio-environmental conflict, what is at the heart of this dispute is the right to the city, expressed as the ability of families to choose and define where they want to live.

Final considerations

The main arguments in this study are based on a reflection relating to urban socio-environmental conflicts resulting from different “spatial practices”. However, we cannot forget that the city is produced and reproduced based on the private property of urban land and this is why these types of occupation directly clash with this logic.

The evolutionary process of Jardim Icaraí has some particularities, all of which go against the official discourses about the city. The development of the Jardim Icaraí space, together with the meanings attributed to things, objects and relations create a feeling of belonging and ties to the place. Thus, the potential forms of appropriating and using the space are revealed, in view of the strategies and conditions established for the physical and social reproduction of families.

The government’s intervention in the area is justified, above all, because it is an APA - Environmental Protection Area, and as such its use is restricted in accordance to legal provisions and Environmental Law. Here we have the first confrontation between public authorities and the families in Jardim Icaraí. For the former, residents must be relocated, because the legislation regarding the area must be complied with. The environment must be protected, and in the specific case of Jardim Icaraí, protection means the preservation of the Iguaçu river and its flood plains which are at risk. For the latter, the environment is not at risk nor degraded, and this is because the river is situated far from the occupied areas and therefore the residents are strictly in keeping with the law.

According to the residents, there is no need to create so many parks and green areas when families need somewhere to live. The families have a different understanding of the environment from the State, as expressed in official documents. The different agents’ diverging conceptions is one of the main reasons for the socio-environmental conflicts in Jardim Icaraí.

Thus, these conflicts bring together both subjective and material aspects in a complex way. This must be considered in any analysis. Therefore, it is important to move away from the alleged “objectivism” of socio-environmental conflicts, commonly expressed in the apparent dispute for the use and appropriation of resources, because they are not limited to the mathematical formula used to account for profit and losses. It is important to consider the social process which consists of a number of different projects. But above

all, it is important to consider the different meanings the environment has for different individuals.

The “environmental question” involves not only a material dimension, but also symbolic content and for this reason, it has conflictive and political characteristics. The concept of socio-environmental conflict encompasses the pressure created not only by the struggles for the use and appropriation of resources, but also those which arise from the different meanings attributed to the environment. In other words: “urban socio-environmental conflicts” are the product of a way of conceiving and planning the city which expresses contradictions as well as the struggles for the appropriation and use of areas in the city.

Notes

- i Within this context, emphasis is given to market relations and the problems of these populations - also deprived of city services - thought to be due to their lack of income (LIMA, 2004).
- ii The reflection set out here falls within the scope of debates on Environmental Justice understood as a “set of principles to guarantee that no particular group of people - be they based on ethnicity, race or class - disproportionately bear the brunt of the degradation of collective space” (ACSELRAD, 2004b, p. 9-10).
- iii Environmental Law is a recent discipline in terms of Law courses in Brazil, the first courses were introduced in the 1990s.
- iv For the use of the environmental discourse to advocate specific interests in the municipality of Rio de Janeiro, see Fuks (2001).
- v Compans analyzes the use of the environmental discourse in Rio de Janeiro on the re-emergence of debates on slum (favela) clearance (COMPANS, 2007).
- vi It is worth recalling the role of the infra-constitutional law which preceded the 1988 Constitution, in particular Law n. 6.938, 31 August 1981 which was considered a watershed in terms of the legal treatment of the relationship between Man and nature (FUKS, 2001). The author draws attention to the importance of this legal provision. This legislation enabled a “new” representation of nature, no longer understood in terms of isolated elements, but perceived in its entirety. Thus the environment is “a set of physical, chemical and biological conditions, laws, influences and interactions which provides the conditions, shelters and governs life in all its forms (FUKS, 2001, p. 72-73).
- vii The ‘Bolsão’ Audi União Project: A Program for the Urbanization, Legal Recognition and Integration of Precarious Settlements [MUNICIPAL AUTHORITY OF CURITIBA, COHAB [Metropolitan Housing Company], IPPUC [Institute for Research and Urban Planning of Curitiba], 2006 (including 3 maps)].
- viii According to municipal authorities, the “Vila Audi União Bolsão” consists of six residential areas: Audi, União-Reno, União Ferroviário, Yasmin, Solitude II, Alvorada II and Icarai [PREFEITURA MUNICIPAL DE CURITIBA, COHAB, IPPUC, 2006 (including 3 maps)].
- ix There was a certain amount of discord with regard to the how long the Bolsão Vila Audi União had been occupied. While residents reported that they had been in the area for over ten years, the analysis conducted by the municipality stated a period of seven years [PREFEITURA MUNICIPAL DE CURITIBA, COHAB, IPPUC, 2006 (includes 3 maps)]. It seems that this may not be just a mere detail, but a significant fact because it affects people’s ability for meeting the criteria used in processes for Land Legalization in an Environmentally Protected Area, according to Resolution n.369, 28th March 2006, Conama [National Environmental Commission].
- x According to Pierre Bourdieu, the processes for classifying and organizing reality are inscribed in practical functions and are geared towards producing effects in the social world (BOURDIEU, 1989).
- xi More specifically, the Curitiba Municipality Document, Cohab, Ippuc (2007).
- xii See the “Qualidade das Moradias” [Housing Quality] section in the document produced by the Curitiba Municipality, Cohab, Ippuc (2007).
- xiii According to the Land Regulation Plan for Permanent Preservation Areas presented by the municipal authorities, it is important to intervene in six locations, or rather, six river basins. The Passaúna sub-river basin, Barigui sub-river basin, Belém sub-river basin, Atuba-Bacacheri sub-river basin, Ribeirão dos Padilhas sub-river basin and the Iguaçú sub-river basin (PREFEITURA MUNICIPAL DE CURITIBA, COHAB, IPPUC, 2006).

xiv It can be observed that the municipal authorities have an enormous capacity to appropriate and disseminate environmental practices in line with the environmental agenda. In the Land Regulation Plan for Permanent Preservation Areas it can be seen that “Conservation Units are the most important strategy for conserving biodiversity, namely the ecosystem, species, genes or human diversity” (PREFEITURA MUNICIPAL DE CURITIBA, COHAB, IPPUC, 2006, p. 26) [our highlights].

xv Law n. 9.804, 3 January 2000 “establishes the Conservation Units in the Municipality of Curitiba and sets out the criteria and procedures for implementing the new Conservation Units”; Law n. 9.805, 3 January 2000 “establishes the Spatial Sector of Sanitary-Environmental Conservation Belt, and sets out other provisions”; Decree n.556(?), “regulates environmental licensing for sand and/or clay extraction businesses in the Municipality of Curitiba”; Decree n. 192(?), “partially regulates art. 5, paragraph IX, Law n. 9.800/00 regarding the Iguaçu Environmental Protection Area, the Iguaçu Municipal Park and sets out other provisions”.

xvi Moura draws attention to this dichotomy, amongst others: “the planned city and unplanned city”, the “real city and the formal city” are “products of the historical process associated to the development of the urban space” (MOURA, 2004, p. 152-155).

xvii These include Law n. 9.804, 3 January 2000, which sets out the Municipal System of Conservation Units and Decree n. 192, 3 April 2000, regulating the article relating to the Iguaçu Protection Area. Because it is a water source area, federal provisions apply such as Law n. 4.771, 15 September 1965 which sets out the “New Forestry Code”.

References

ACSELRAD, Henri. **Conflitos ambientais no Brasil**. Rio de Janeiro: Relume Dumará, 2004a, p. 13-35.

_____. “As práticas espaciais e o campo dos conflitos ambientais”. In: _____. “Justiça ambiental: ação coletiva e estratégias argumentativas”. In: ACSELRAD, Henri *et al.* (Org.). **Justiça ambiental e cidadania**. 2.^a ed. Rio de Janeiro: Relume Dumará, 2004b, p. 23-39.

BOURDIEU, Pierre. **O poder simbólico**. Trad. Fernando Tomaz. Rio de Janeiro: Difel/Bertrand Brasil, 1989.

CARLOS, Ana. **Espaço – tempo na metrópole: a fragmentação da vida cotidiana**. São Paulo: Contexto, 2001.

COMPANS, Rose. “A cidade contra a favela. A nova ameaça ambiental”. **Revista de Estudos Urbanos e Regionais** n.º 1, vol. 9, p. 83-99, maio de 2007.

DERANI, Cristiane. **Direito econômico ambiental**. São Paulo: Max Limonad, 1997.

FLORIANI, Dimas. **Conhecimento, meio ambiente e globalização**. Curitiba: Juruá, 2004.

FUKS, Mário. **Conflitos ambientais no Rio de Janeiro: ação e debates nas arenas públicas**. Rio de Janeiro: Ed. UFRJ, 2001.

HOBSBAWM, Eric. **Era dos extremos: o breve século XX: 1914-1991**. Trad. Marcos Santarrita. São Paulo: Cia. das Letras, 1995.

_____. Identity Politics and the Left. **New Left Review**, n.º 217, p. 38-47, 1996.

LEFEBVRE, Henri. El espacio. **Espacio Y Política**. El Derecho a la Ciudad, II. Espanha: Ediciones Península, 1977, p. 23-42.

LIMA, Cristina de Araújo. “Multiespacialidades metropolitanas e construção social do lugar – rumos para a sustentabilidade”. **Revista Desenvolvimento e Meio Ambiente**. Cidade e Sustentabilidade, Curitiba, n.º 9, p. 39-56, 2004.

LOPES, José Sérgio Leite. A “ambientalização” dos conflitos sociais. In: LOPES, José Sérgio Leite (Coord.). **A ambientalização dos conflitos sociais**. Rio de Janeiro: Relume Dumará, 2004, p. 17-38.

MOURA, Rosa. “Políticas públicas urbanas: ausências e impactos”. In: MENDONÇA, Francisco. “SAU – Sistema Ambiental Urbano: uma abordagem dos problemas socioambientais da cidade”. In: **Impactos Sociambientais Urbanos**. Curitiba: UFPR, 2004, p. 185-207.

_____. “Os riscos da cidade modelo”. In: ACSELRAD, Henri (Org.). **A duração das cidades: sustentabilidade e riscos nas políticas urbanas**. Rio de Janeiro: DP&A, 2001, p. 203-237.

OLIVEIRA, Denílson. **Curitiba e o mito da cidade modelo**. Curitiba: UFPR, 2000.

PEREIRA, Gislene. **Produção da cidade e degradação do ambiente: a realidade da urbanização desigual**. Curitiba, 2002. Tese (Doutorado em Meio Ambiente e Desenvolvimento). Universidade Federal do Paraná.

WACQUANT, Loic. **Os condenados da cidade**. Trad. João Roberto Martins Filho. Rio de Janeiro: Revan/Fase, 2001.

Consulted Documentation

Documents

PREFEITURA MUNICIPAL DE CURITIBA, COHAB, IPPUC. **Plano de Regularização Fundiária em Áreas de Preservação Permanente**. Curitiba, mar., 2007, 193p.

PREFEITURA MUNICIPAL DE CURITIBA, COHAB, IPPUC. **Projeto Bolsão Audi União**. Curitiba, mar., 2006, 11p. (incluindo 3 mapas).

Legal Instruments

BRASIL. Laws, Decrees... Lei n.º 10.257, de 10 de julho de 2001, que “Regulamenta os arts. 182 e 183 da Constituição Federal, estabelece diretrizes gerais da política urbana, e dá outras providências”. Retirado do site http://www.planalto.gov.br/ccivil_03/Leis/LEIS_2001/L10257.htm. Acesso em: 7 de setembro de 2010.

BRASIL. Laws, Decrees... Lei n.º 4.771, de 15 de setembro de 1965, que “Institui o Novo Código Florestal”.

BRASIL. Laws, Decrees... Resolução n.º 369, de 28 de março de 2006, do Conselho Nacional de Meio Ambiente (Conama). Disponível em: <http://www.mma.gov.br/port/conama/res/res06/res36906.xml>. Accessed on: 10 May 2007.

CURITIBA. Laws, Decrees... Lei n.º 9.804, de 3 de janeiro de 2000, “cria o Sistema de Unidades de Conservação do Município de Curitiba e estabelece critérios e procedimentos para implantação de novas Unidades de Conservação”.

CURITIBA. Laws, Decrees... Decreto n.º 556(?), “disciplina o licenciamento ambiental dos empreendimentos de extração de areia e/ou argila no Município de Curitiba”.

CURITIBA. Laws, Decrees... Decreto n.º 192(?), “regulamenta parcialmente o art. 5.º, inciso IX, da Lei n.º 9.800/00, no que diz respeito à Área de Proteção Ambiental do Iguaçú, Parque Municipal do Iguaçú, e dá outras providências”.

Submitted on: 15/08/2014.

Accepted on: 23/01/2015.

<http://dx.doi.org/10.1590/1809-4422ASOCEX08V1822015en>

SOCIO-ENVIRONMENTAL CONFLICTS: ENVIRONMENTAL LAW AS AN INSTRUMENT FOR LEGITIMIZING THE ACTIONS OF PUBLIC AUTHORITIES AN INTERVENTION IN JARDIM ICARAÍ, CURITIBA, PR

ROSIRENE MARTINS LIMA
JOAQUIM SHIRAIISHI NETO

Resumo: O objetivo deste trabalho consiste em refletir sobre o conflito socioambiental envolvendo o poder público e os moradores do Jardim Icaraí, em Curitiba, Paraná. O exercício toma o direito ambiental como instrumento de produção e difusão de uma ideia oficial de meio ambiente, e o plano de intervenção que, além de se encontrar legitimado por esse direito, está articulado com as políticas urbanas no município de Curitiba.

Palavras-chave: Conflito Socioambiental, Direito Ambiental, Política Urbana.

Abstract: The objective of this project is to focus on the environmental conflict involving the government and the residents of Jardim Icaraí in Curitiba, Brazil. This exercise examines environmental law as an instrument for producing and disseminating the “official version” of the environment and the city’s intervention plan. Environmental Law not only provides legitimacy to this plan, but is also intimately associated to the urban policies in Curitiba.

Keywords: Environmental Conflict, Environmental Law, Urban Policy.

Resumen: El objetivo del trabajo consiste en reflexionar sobre el conflicto socioambiental, envolviendo el poder público y las personas que viven en el Jardín Icaraí, en Curitiba, Paraná. El ejercicio toma el derecho ambiental como instrumento de producción y difusión de una idea oficial del medio ambiente, y el plan de intervención, que además de encontrarse legitimado por ese derecho está articulado con las políticas urbanas en el municipio de Curitiba.

Palabras clave: Conflicto Socioambiental; Derecho Ambiental; Política Urbana.
