URBAN INFORMALITY AND DEMOCRATISATION IN SAO PAULO: THE SINUOUS ROAD TO CITIZENSHIP

Roberto Rocco ¹ Jan van Ballegooijen ²

¹ TU Delft, Faculty of Architecture and the Built Environment, Delft, r.c.rocco@tudelft.nl
² Crimson Architectural Historians, Rotterdam, architecture@janvanballegooijen.com

Keywords: urban informality, democratisation and urbanisation, popular movements, positive rights, self-help

Abstract

There has been a renewed interest in informal urbanization among urban thinkers in the last decades. In their contributions to the discourse on urban informality, we often find an overvaluation of informality’s positive aspects. The underlying argument is that governments and planners should ‘learn’ from informal settlements in the global south, as informal settlements represent a more authentic, ‘honest’ and politically desirable form of urban development. Other authors identify intrinsic formal qualities that should be emulated. In this tekst, we challenge these viewpoints with an account of the political history of São Paulo’s informal periphery and its struggle for rights and democratization. The hypothesis we explore is that the informal urbanization of the peripheries of São Paulo is closely tied to a plea for rights and the emancipation of the working classes during the second half of the twentieth century in Brazil. We adopt the position that exclusion from formal political structures has deep-reaching consequences and is reflected on the built environment as well. In many cases, informal urbanisation can be the physical expression of the absence of rights and deficiencies in the rule of law. In this sense, informal urbanisation is not a pragmatic solution for the lack of formal housing in developing countries, but the sign of non-inclusive political systems. Informality can therefore be seen as the expression of exclusion from the rule of law and the protection it offers to citizens. It often creates all sorts of distortions in the relationships between citizens and political power.

1. Introduction

Recently, there has been an increasing interest among Western urban thinkers in urban informality in the Global South. This interest is not new; structuralist planners and architects of the 1960s and 1970s were often interested in the phenomenon. This time around, however, the emphasis has radically shifted towards a defence of informal urbanisation as a viable alternative for urban development.
Around 2000, ‘starchitect’ Rem Koolhaas studied Lagos for several years and published parts of his research in his book Mutations (Koolhaas et al., 2001). Koolhaas’ research was important – despite the fact that very little was actually published– because it reintroduced urban informality in the discourse of architects and urban designers in the West. What Koolhaas found in the chaotic city of Lagos was an unlikely model for Western cities. To paraphrase Koolhaas (2000: 653): ‘Lagos is not catching up with us. Rather we [the Western cities] are catching up with Lagos’. In 1998, the Venezuelan architect Alfredo Brillembourg and the Austrian architect Hubert Klumpner founded the partnership Urban Think Tank. They would soon became leading figures in the discourse of urban design with regards to informal urbanization. In their work, informality is framed as an interesting ‘laboratory for the study of adaption and innovation’ where ‘flexibility is the common ground among these approaches, a model of organic development that challenges the assumption of traditional Western planning that man controls his surroundings’ (Brillembourg et al., 2005). These are only two of many examples of discourses being developed by architects in the West around the notion that informal urbanisation is something we can learn from.

The idea that the informal city is a laboratory for urban development has now become generally accepted amongst some groups working in urban design and planning practice. Leading Italian architect Stefano Boeri (2012), together with Urbz published a ‘manifesto’ of eleven statements on favelas, concluding that ‘favelas are an essential part of the contemporary city’, and therefore a potential model for western city planning. In a recent issue of the architectural magazine ‘Lotus’, titled ‘Learning from Favelas’ (2010), it is stated that favelas are ‘considered only in negative and problematic terms’, a misunderstanding according to the Lotus editors, as ‘the favelas constitute, partly because of their immense size and variety, a type of settlement that needs to be seen as a new area of experience and learning for architecture.’

We have explored the idea (Ballegooijen and Rocco, 2013) that this rather positive valuation of informal urbanization often comes with a strong distrust of governmental housing programs and urban planning in general. Robert Neuwirth, an American journalist who lived in informal settlements in four continents, states in his book Shadow Cities; ‘The point is to look at the facts. Not one government in existence is successfully building for the poorest of the poor. So the poorest of the poor are building for themselves. That may not fit into any great ideological category, and it is certainly illegal according to current law. But it is sensible, patriotic, and worthy of a true citizen. (...) The legal instrument is not important' (Neuwirth, 2006: 301). In other words, urban planning and the rule of law have become redundant in face of the sheer volume of poor citizens who cannot have their spatial demands satisfied by formal institutions. This critique on the role of governments is often accompanied by a critique on architects and urban planners, who are seen as accessories to the authorities. In short, instead of embodying the counter-image of modernity as many have claimed in the past, the favela is now increasingly presented as an improbable future model for the modern metropolis. Favelas are being increasingly mystified as an ideal image of an anti-authoritarian, flexible, aesthetically desirable or perhaps unavoidable form of urbanization.

Ananya Roy describes this phenomenon as ‘the aestheticization of poverty’ (2004: 302). This means that urban informality is understood disconnectedly from its political and economic circuits and is often merely viewed as an aesthetic phenomenon. Urban informality is then framed as ‘vernacular’, ‘innocent’ and ‘authentic’. The problem with the aestheticization of urban informality is that housing
problems are being depoliticized, and the injustice, hardship and political exclusion the urban poor face every day are being ignored. The mystification and romanticisation of informal urbanization needs a more critical approach. Understanding why slums, favelas and other kinds of informal urbanisation emerge and what are their role and connections with the political realm seems crucial to us. This far exceeds the seemingly purely formal interest that western architects, urban designers and planners currently seem to have.

In order to explore those questions, we attempt an inquiry on the triggers and consequences of informal urbanisation in the city of São Paulo, Brazil’s largest metropolis, and on the simultaneous emergence of a dynamic civil society there. The hypothesis we pursue here is that the process of informal urbanization is closely tied to a long running process of emancipation of the working classes during the second half of the twentieth century in Brazil. This hypothesis was thoroughly pursued by Holston (2008) and others. But here we claim that this emancipation is closely connected to a political struggle for ‘positive rights’, which, we believe, debunks the notion that citizens want to be freed from the shackles of governments. ‘Positive rights’ (of which we will provide a detailed description further on), imply a collective (or public) undertaking to provide affordable basic services to citizens. In this way, the struggles of citizens in one of the most dynamic democracies in the world points towards the opposite of what is being argued by architects and urban designers: citizens in São Paulo do not want to be ‘left alone’ to build their own houses freely and unconstrained by authority. Instead, they want stronger, effective, pro-active public policies that are able to provide public housing and ultimately formal urbanisation and services to the whole city.

These circumstances triggered this investigation, in which we attempt to answer the following questions:

- What is the meaning of informal urbanization in the context of an emerging democratic system in Brazil?
- What exactly are these social movements striving for and do they see favelas as a desirable solution for cities in the developing world?
- Is informal urbanization a mode of urbanization desirable for Western cities?

But before we proceed to try and answer those questions, it is useful to further delineate our object of study. What do we mean by informal urbanization?

2. Housing for Workers: Favelas, loteamentos and loteamentos clandestinos

As it has been widely described (Muniz, 2009), income inequality has been historically high in Brazil. The GINI coefficient measured by the World Bank is currently (2013) 0.547, as compared with 0.45 in the US and 0.35 in the UK [ii]. This index is equally high in the city of São Paulo (0.56). Income inequality has not only resulted in a large gap between different social classes in the city; it has divided the inhabitants of São Paulo spatially. Anyone visiting São Paulo today can see spatial segregation both in terms of distances as well as in building typology and urbanization patterns. The central districts are full of high-rise apartment buildings; initially built for middle and high-income groups; whereas the
peripheries are urbanized through a process of self-help (*auto-construção*), the gradually improved houses of the working class citizens.

Already in the beginning of the 1940s, São Paulo started to suffer from the intense occupation of its urbanized core. Immigration and industrialisation after World War Two put enormous pressure on the existing infrastructure. The remote peripheries became the only affordable places to live for the working classes. Millions built modest shacks on lots they purchased, legally or illegally, through the private market. Lack of accessibility to services and facilities, disconnection to the job market, poverty, crime, and lack of basic infrastructure made everyday life in São Paulo peripheries difficult in every respect. However, we can assert that the peripheries of São Paulo are largely characterized by upward social mobility: the shacks were slowly transformed into decent houses through self-help and self-construction. What used to be slums could in some cases develop into normal working-class neighbourhoods. This is the case of innumerable *favelas* and ‘ocupações’ that are ultimately indistinguishable from low-income neighbourhoods in the city.

The rapid urbanization of São Paulo can be partly explained by the large amount of jobs available in the factories of the ABC region [iii] and the early formation of economies of scale, which created jobs in the services sector as well (UN-Habitat, 2010). Working class citizens could not afford a private car and, as investment in public transportation was low, they had to live close to jobs. And since social housing projects were limited, or not affordable, *loteamentos* or *favelas* were their only options for shelter.

In São Paulo the *loteamentos* or land subdivisions became the most popular and widespread mode of urbanization in the peripheries of the city for sheer lack of options.

When speaking about the issue of informal urbanization in São Paulo, we use the term “periphery”, which we translate from the Portuguese term *periferias*, commonly used to describe the outskirts of Brazilian cities. In São Paulo, the term *periphery* refers not only to a spatial concept (i.e. the relationship between core and periphery) but also to a social and political realm. More than a geographic denomination, the expression ‘periferias’ denote peripheral development and informal urbanisation at the margin of institutional planning.

Within the periphery of São Paulo, three types of urban informality can be distinguished. Visually and formally, these different types may appear as remarkably similar, but their legal status, history and their social organization differ significantly.

The *favela* is the most widely known form of urban informality in Brazil; the term has become the collective denomination for all sorts of illegal urbanization. However, only a small percentage of the informal typologies found in the peripheries of São Paulo can be defined as *favelas*. The typical *favela* is an unplanned, organically grown settlement, build on squatted land. Shacks are initially built with poor materials and usually lack basic infrastructure and sanitation in the early stages of development. However, some *favela* dwellers are able to improve their poor shacks along the years to acceptable standards, through self-help. The classical *favela* is often situated in the unoccupied, left-over spaces of the city such as steep slopes, sites along busy highways and railways, areas with high risk of flooding and environmentally protected areas which are not available for urban development. Some of these areas can also be found within the more consolidate urban fabric of the city, but these are exceptions.
In general, land plots vary in size and are irregular in shape. The *favela* first grows horizontally but soon starts to grow vertically, meaning that people build extra floors in order to increase their living spaces, rent out rooms or simply to accommodate other members of the same family. In general people do not have legal titles for the plots where their shacks are built, although efforts have been made to tackle property issues in illegal settlements in Brazil. Therefore *favelas* are mostly considered illegal urbanization and inhabitants often suffer from extreme uncertainty about their ability to remain in their houses. The illegal dimension of *favelas* often prevents the public sector from delivering basic services and facilities, but in recent years local governments in Brazil have adopted a proactive stance, delivering services and giving out ownership deeds (Gohn, 1991, Spinazzola, 2008).

Another well-known typology is the *ocupação* (occupation). *Ocupações* are land invasions organized by social movements such as MST (*Movimento dos Trabalhadores Rurais Sem Terra*, or the movement of landless rural workers) or their sister organization MTST (*Movimento dos Trabalhadores Sem Teto*, the movement of the homeless urban workers). The former focuses on land reform and rural land redistribution, and the latter focuses on urban housing and land invasions in urban territory. In the case of land invasion, a group of people, under the supervision of a community leader, occupies unused urban land. Social movements that organize the land invasions see their actions as perfectly legitimate as long as the government cannot provide alternative solutions for housing.

Contrary to the morphology of the classical *favela*, the *ocupação* is a strictly planned form of urban informality. Lots have equal sizes and the morphology is in general not irregular. The fact that occupiers are related to large social movements gives them a certain political power, as these organizations help press local authorities to provide basic infrastructure or to give occupiers property titles. Those social movements often use a Leftist rhetoric and were sometimes supported by progressive sections of the Roman Catholic Church. The branches of MST that operate in downtown urban environments are also known for the squatting of empty buildings, which they organize as quasi-military operations (Lavalle et al., 2007).

*Favelas* and *ocupações* share the characteristic that people get access to land by seizure, meaning that they operate outside the existing legal framework and outside the formal market. In this, they differ from the majority of the people in São Paulo’s periphery who purchase a lot, the so-called *loteamentos* or plot subdivisions. The fact that the lots are purchased, and not occupied, means a lot to the owners who often see themselves as better citizens than those who get land through seizure. However, the *loteamentos* might be purchased in the market, they are also characterized by their illegality because of various reasons. Often the constructions violate the municipal zoning plans or land use plans. Sometimes landowners think they own the land legally and realize much later that their title deeds are falsified by the developers.

This varied landscape of ownership has implications on the way places evolve, and on the way these places are dealt with in the formal planning system. They also represent different trajectories in the path to rights. Most importantly, this varied landscape of ownership has consequences to the way people deal with rights. This is what we explore in the next section.
3. Consequences of illegality

Most of the urbanization that took place in São Paulo’s peripheries was at some stage in its development to a greater or lesser degree illegal. The growth of this illegal periphery caused not only serious social problems in Brazilian society, it also affected the conception of citizenship among the illegal settlers.

These civil and political consequences have been studied extensively by anthropologist James Holston. He argues that the illegal status of people’s dwellings ‘subverted their civil citizenship’ in two ways. First, because the illegal status placed residents ‘at the other side of the law’, meaning that it ‘alienated citizens from law generally, diminishing their access to its rights and justice, undermining it [the law] as an institution of and for citizenship’ (Holston, 2008: 113). In short, the danger of widespread illegality is that it undermines the credibility of the rule of law. As illegality becomes the norm – as is the case in some parts of Brazilian cities – the law becomes merely an instrument to suppress instead of securing the liberties of residents.

The second reason Holston gives for illegality to subvert citizenship is that it ‘denied them [informal settlers] the civil standing that legitimate property ownership is conventionally understood to create’ (Holston, 2008: 113). Despite the hard labour connected to the self-constructed dwellings, the informal settlers were often stigmatized as pirates or criminals, partly because it was presumed that they did not pay taxes or because they were associated with crime and poverty. But the issue of legality is also a central theme among informal settlers themselves. Informal settlers understand all too well that legal titles give them not only protection against forced evictions, it also provides them with social status in terms of citizenship (Holston, 2008: 174).

It is important to emphasize that the illegal character of land ownership created an unbalanced and unhealthy relationship between the authorities and informal settlers. This does not mean that the government was completely absent from some of these neighbourhoods: sometimes the local government would provide piped water, pave the streets or even build schools. However, because people were illegally occupying land they had no rights to, they could not claim the right to urban amenities and services ["]. In short, they were effectively politically disempowered despite their endless struggles.

Kowarick (2004) points out that the process of building one’s own house is a tiring and labour-intensive process. According to research done in the late 1970s, it often took more than ten years before people considered their houses finished. Many of those first pioneers in self-help housing lived for many years in what Kowarick calls “embryo houses”, measuring approximately 15-30 m². In some cases, typical lots with an area of around 125 m² were subdivided into two or three plots in order to shelter friends or extended family. The self-building process was often done with the help of friends or neighbours who expected to be helped in return. According to Kowarick, the majority of homeowners in the peripheries financed their houses from savings gained in the job market (43 %), overtime or odd jobs (13%), use of the 13th monthly bonus salary accorded to people employed in the formal market (7%) and cuts in household expenditures, including expenditures on food (7%). Only 7% of the builders were in the legal and financial position to apply for a loan in private banks to finish their houses (Kowarick, 2004).
Holston (2008: 181-183) explains that most of peripheral settlers obtained their lots through semi-fraudulent developers or *swindlers*. In Jardim das Camélias, settlers in the late 1960s paid NCr$ 15,000 for a lot of 120 m², or approximately 116 minimum salaries at the time. With signing the contract they paid an advancement of 10% and contracted for 120 monthly payments. The financial burdens were very heavy and if people were not able to pay instalments on time, they would have to pay even more interest and penalties.

This pattern of urbanisation was partly caused by the difficult access to existing housing finance programs for the working classes. In 1964, the Banco Nacional de Habitação (National Housing Bank, hereafter BNH) was created by the Brazilian federal government to solve this issue. However, the outcome was paradoxical. The BNH, together with the Sistema Financeiro de Habitação (the federal Housing Financial System, SFH), would become the main financing program for the middle classes, funding mostly high-rise apartment buildings in central districts, and very little affordable housing for the working classes.

Between 1965 and 1985, only 6.4% of the total funding of housing projects went to families with an income lower than 3.5 minimum salaries at the time. Or as Caldeira puts it: “[T]he middle classes were getting cheap mortgages subsidized by the government, and the working classes, who could not afford to buy on the formal market and who only rarely met the BNH requirements for loan application, were building their houses by themselves on the periphery without any public financial help.” (Caldeira, 2000: 227)

Meanwhile, the inequalities between urban centre and periphery influenced quality of life radically. In 1968, more than 50% of all dwellings in the city of São Paulo had no piped water, more than 40% were not connected to the sewerage system, and 16% lacked garbage collection. The municipality indicated that 60% of the streets were unpaved, and 76% lacked street lighting. In Itaquera, a typical newly urbanized peripheral district in the eastern part of the city, 89.3% of dwellings lacked piped water, 97% of dwellings had no sewerage system and there was basically no pavement on the streets or garbage collection. In the central districts, on the contrary, only 1.7% of the streets lacked pavement, 0.8% of the streets had no sewerage system, and no more than 4.5% of the dwellings had any sewerage system (Caldeira, 2000: 228).

As Caldeira points out, unequal development patterns have had tremendous consequences for the life chances of households living far from the benefits of formal urbanisation. The infant mortality rate that had decreased between 1940 and 1950, increased again between 1960 and the mid-1970s in São Paulo. More specifically, infant mortality rose from 62 per 1000 live births in 1960, to 80 in 1975. The difference between centre and periphery is significant here. In 1975, in São Miguel Paulista – the eastern periphery of São Paulo – the infant mortality rate was 134 per 1000 newborns, while in the wealthy district of Jardim Paulista, the rate was 44.6 per 1000 newborns in the same year (Caldeira, 2000: 229). Despite the unequal distribution of access to funding and basic infrastructure, one should not overlook positive aspects of the process of auto-construction or self-help. For the first time in Brazilian history, the lower classes were able to acquire physical possessions in the form of a dwelling. The dwellings in São Paulo’s periphery were far more than a necessity of life, or a roof over one’s head; they were also a representation of people’s social and economic emancipation. By overcoming difficulties people faced in everyday life, they were capable of building an entire city outside the legal and well-equipped city centre.
Homeownership increased their self-confidence and would later become a symbol of their social status within São Paulo’s civic society.

Brazil experienced a period of intense growth from the 1950s to roughly 1973. The extensive growth of the automotive industry in the 1960s and 1970s in the ABC area of São Paulo not only changed the face of the hinterlands of the city; it would also change Brazil’s political landscape. As a result of urbanization and industrialization, a great amount of industrial workers gathered in the ABC area in São Paulo. However, the oil crisis of 1973 affected Brazil’s economy deeply in a time when the Cold War raged and a military junta was in power. Brazil was heavily dependent on oil imports. But even in 1974, under President Geisel’s administration (1974-1978), the GDP still grew at an average rate of 6.7 %. This was only possible by taking out more international loans, resulting in a fast growing foreign debt. Inflation remained at an average rate of 37.9 % yearly during the Geisel administration. It was this stable but relatively high inflation rate that started to cause numerous problems, especially among workers in São Paulo’s periphery. Union leaders started to organize huge masses of workers who were dissatisfied with insufficient salary adjustments. The high inflation rates caused a significant devaluation of their salaries and this devaluation was only partly replaced by yearly salary adjustments. This state of affairs created the feeling that businesses were being unfairly rewarded with the compression of labour costs.

This provided the opportunity for the organization of the great strikes of 1978 and 1979, in which millions of workers took part. Under union leader Luiz Inácio (Lula) da Silva – who would later become twice-elected president of Brazil – workers organized dozens of strikes, advocating not only wage increases, but also recognition of factory committees, stable work contracts, and democratic freedom of expression (Fausto, 1999). This was a crucial moment in the political emancipation of the impoverished peripheries, as it created a movement that went far beyond the metropolitan region of São Paulo itself. What happened in the ABC city of São Bernardo, for instance, influenced millions of working class citizens throughout the country. The rising influence of trade unions would become one of the major powers behind the democratization process in Brazil.

Alongside the surprising growth of the trade unions, a second, more urban oriented movement started to appear: neighbourhood-based social movements in the distant peripheries of the city. The majority of the participants in these grassroots social movements were women, often supported by progressive sections of the Catholic Church. Caldeira (2000: 49) argues that these women ‘discovered that being taxpayers legitimated their “right to the city”’, and ultimately justified the occupation of plots and subsequent demand for public services. Citizens started to realize that inclusion in the legal framework of the city, in the form of tax payments, property deeds and other tools for the legalisation of their dwellings would provide them the best opportunity to keep their dwellings and force local governments to upgrade their neighbourhoods (Caldeira & Holston, 2005: 402). One could argue that one of the seeds of the democratization process in Brazil was – paradoxically – the urban segregation and impoverishment of the peripheries of Sao Paulo and the realisation by a segment of its inhabitants that they needed to be included in the formal proceedings of the State to accede to property, safety and prosperity. It is precisely this demand for ‘right to rights’ that distinguishes the social movements of the 1970s in São Paulo from earlier ones.
The rhetoric of the ‘right to rights’ movement was, according to Holston (2005), extremely successful among inhabitants of São Paulo peripheries because of two factors. In the first place, it included issues of illegality and marginalization within a discourse of dignity and the rule of law. Members of social movements were ‘participating in the public sphere as legitimate bearers of rights’, instead of seeing themselves as vagabonds begging for mercy. Secondly, and more importantly, Holston points out that the whole perspective on Brazilian citizenship rights shifted. In the past, full citizenship rights had always been a privilege of the Brazilian elites. From the 1970s on, rights were necessarily rights for all, despite the fact that this had not not been accomplished in practice. From spatial, social and legal segregation, combined with the emphasis on self-help, and the continuing absence of the State, emerged a new kind of social-political realm in São Paulo. All sorts of organizations emerged: local organizations concerned with housing, infrastructure, services, tenure conflicts, centres for the defence of human rights, movements against police violence. A new form of Brazilian citizenship had emerged and civil society was on the move.

At the beginning of the 1980s, the military federal government allowed the free formation of political parties. This would also lead to the formation of the Partido dos Trabalhadores (PT). The founders of the PT were somehow able to bring together a wide variety of participants such as women, neighbourhood-based organizations, blacks, homosexuals, liberation theology-oriented Catholics, progressive and moderate intellectuals and union leaders (Caldeira, 2000; Samuels, 2004).

It is crucial to realize that the struggle for rights in relation to urban informality was shaped by a much broader national political emancipation process of the Brazilian working classes. In the next paragraphs we will briefly outline how this broader national movement in Brazil unfolded.

The deepening of the economic crisis of the 1980s affected the middle and working classes the most, as inflation reduced their buying power, economic growth stagnated, unemployment and inflation rose to high levels. It is during these times that the call for democratization among the Brazilian population - and consequently the ending of military rule - started to grow. One of the results was the Diretas Já movement. Diretas Já stands for ‘(Democratic) Direct (Presidential Elections) Now’. This movement began in March 1983 in the Northeastern Brazilian state of Pernambuco. It demanded immediate direct presidential elections and attracted a wide group of student organizations, trade unions and political and social movements. In all major cities of Brazil, large demonstrations took place. On April 16th 1984, a demonstration attracted 1 to 1,5 million people to the downtown areas of Praça da Sé and Vale do Anhangabaú in São Paulo. It is said to have been the largest political demonstration in the history of Brazil (Caldeira, 2000: 49). However, the National Congress voted to deny the population the right to vote, and it would take four more years before Brazilians could democratically elect their president.

But despite the ensuing disappointment, the popular pressure was not without results and the process of democratization continued with the election of a Constitutional Assembly in 1986. The task of the commission was to write a democratic constitution. The constitution was promulgated in 1988, and in 1989, Brazilians could at last vote for their president. The first democratic elected president was Fernando Collor de Mello, a young conservative politician from the Northeastern Brazilian state of Alagoas. Collor, as he was popularly known, was connected to the old agrarian oligarchy of his State, but embraced a modernizing discourse that seduced the urban middle classes. He defeated the former union leader Lula
da Silva, candidate for the leftist Workers’ Party (PT). Collor was later impeached for corruption. Meanwhile, the new constitution began to have an impact on the lives of Brazilians, as its rulings were put into practice, in the form of progressive legislation. In the next section, we will discuss the significance of the new constitution and the emergence of specific progressive laws on urban development.

4. The 1988 Constitution and the 2001 City Statute

The writing of the Constitution was an important moment for Brazil, not only for the rebirth of civil society as a whole, but also specifically for those living in the peripheral areas of Brazilian big cities. Several social movements and civic organizations were able to influence the content of the constitution by gathering signatures for the so-called Popular Amendments (amendments to the text, proposed by popular consultation) [@]. One of the most important developments was that the newly enacted Constitution made it possible for urban social movements to participate in urban reform and municipal administration. Citizens were now able to influence master plans and municipal codes and regulations through participatory mechanisms. One of the most important developments in urban policy in Brazil was the passing of a bill known as the Estatuto da Cidade (the City Statute) in 2001. This law was implemented with the support of organizations historically rooted in the popular urban social movements. Caldeira and Holston (2005) mention four reasons why this law is so important in the history of Brazilian legislation.

In the first place, the Estatute of the City defines a set of general guidelines that demarcates the social function of the city and of urban property. This notion came from the separation of property rights from use rights. In short, the legislation defines urban property as having an eminently social function. This is because the value of urban property is the result of a collective undertaking, which results in the city itself, with all the locational benefits it provides, as the structures and infrastructures serving a particular plot of urban land are generally paid for with public money. This meant that financial gain could be considered as a secondary objective in urban development, and that land could be taxed, regulated, expropriated and used for social purposes. It also meant that progressive taxation could be applied to land that did not comply with its social role. Article 182 in the 1988 Constitution defined the objective of urban policies as ‘to organize the full development of the social function of the city’ (Caldeira & Holston, 2005).

The second reason why the City Statute is so important is that this piece of legislation is written from the perspective of the urban poor, who are the majority of Brazilian city dwellers. Therefore it ‘creates mechanisms to revert some of the most evident patterns of irregularity, inequality, and degradation in the production of urban space’ (Caldeira & Holston, 2005). This is remarkable in the history of Brazilian and Latin American urban policy-making.

The third aspect Caldeira and Holston highlight is that the Statute promises to develop and implement urban policies only with the intermediation of popular participation. This means that the production of urban space is not solely a matter of the State but citizens are called upon to actively participate and influence policy-making. Due to the democratization process, neighbourhood-based organizations now could have a say in the approval of the master plans made by local administrations. The City Statute admirably combines top-down planning with bottom-up input. There is a fourth aspect worth mentioning. The City Statute is ‘not framed as a total plan’ (Caldeira & Holston, 2005), but offers
the possibility for local administrations ‘to enforce the social function of property/of the city’ in a myriad of different ways. For that reason, it is fundamentally different from earlier urban pieces of legislation, such as the planning of Brasília (1955-1960), which consisted of a total design where views about how society should function are implicit in urban form. The City Statute encourages local administrations to implement small neighbourhood-based projects, instead of large-scale master planning.

The Statute should be seen as the instrument towards more equal distribution of urban land and facilities. In the Statute, citizens’ urban rights are assured, and therefore the law can be used to put pressure on local administrations to improve the quality of living environments on many different levels. Article 2 of the Statute speaks of ‘the right to sustainable cities, understood as the right to urban land, housing, environmental sanitation, urban infrastructure, to work and leisure for current and future generations’ (Brazilian Federal Government, 2001). Again admirably, the Statute understands and puts into action the concept of sustainability as necessarily composed by social, economic and environmental dimensions. According to the same article, urban policies should also supply ‘urban and community facilities, transportation and public services adequate for the interests and needs of the population’ (Brazilian Federal Government, 2001).

This legislation is especially significant for people living in favelas and illegal subdivisions as the ones we described above, specially when we consider article 2 above in relation to article 9, which guarantees that people who have inhabited a dwelling for more than five years uncontested will get legal property rights of their possessions (in most cases a house, but also agricultural land). In practice the procedure to obtain legal status for an irregularly subsided plot of land is still a complicated affair, but municipalities are nowadays actively supporting favela dwellers and owners of illegal subdivisions in the juridical process. Article 9 is important because it protects people against forced evictions. It is also important because the legalization of favelas and illegal subdivisions also implies that local authorities are forced to install the urban facilities defined in article 2 (City Statute, 2001).

The City Statute and the Brazilian Constitution are today actively used by urban social movements to legitimize their claims to occupied land. Activists make use of formally illegal strategies – occupations – to evoke other, more fundamental rights such as the right to adequate housing (Earl, 2011: 6). This struggle for civil and political rights is paradoxical because while people act outside the rule of la, on the other hand they want to expand the reach of the law to include them. To better explain this process, we make an analogy with an ancient walled city. In this analogy the wall represents the law as the instrument that separates and discriminates what is protected and what is not. Outside the city walls lives a large community of ‘out-walls’ who want to be protected by the walls of the city. They are allowed to work and trade in the walled city, but at night they must get out and therefore do not benefit from the protection of the city walls. But it comes a day when the migrants are so many that they are able to tear parts of the wall down in flagrant opposition to the interests of those inside the city walls, but they are then willing to deconstruct the walls so that they now include the entire community.

This is what in fact happened in Brazil over the last two decades: citizens who lived outside the legal framework, the ‘out-laws’ in the most literal meaning of the expression, had no other choice than to violate the law in order to obtain full citizenship rights and become included in the legal framework. This also means that there is in fact an increasing formalization of the informal, not so much in spatial terms
but certainly – and more importantly – in legal terms. In other words, this process represented the transition from exclusive citizenship towards inclusive citizenship.

These arguments bring us back to our original plea: informal urbanization cannot be a model for urbanization and citizenship in modern mature democracies, because there the ‘walls of the law’ are supposed to encompass all. This is not to say there are no excluded groups in western democracies, but these excluded groups have very different access to rights and different ways to struggle for rights in mature democracies. One example is access to housing. We know access to quality housing is not universal in western democracies, but a very large percentage of households do enjoy access to some sort of public or subsidised housing arrangement. Excluded groups are composed mainly by recent (and oftentimes illegal) immigrants and social outcasts.

By describing the trajectory of struggle for rights in Brazil, which we see as deeply connected to informal urbanization, we expect to demystify the role of informal urbanization in modern democracies. Architects and urban planners are often attracted by informal settlements because of their smart irregular morphology or the ‘innocent’ vernacular qualities. The irregularity of these urban environments is then understood as ‘more flexible’ or ‘more free’. Spectacular failures in state planning and government subsidised social housing – and governmental planning in general – have been under fierce attack from neoliberals, an attack that started in the 1960s but still goes on. Sectors of the urban design and planning community have adopted these views. In their attack on the omnipresent state in Western democracies, the design community has found its unlikely avant-garde in the informal city in the global south, especially in the shape of the Brazilian favela. The irony is that residents of informal neighbourhoods in Brazil have engendered a political movement that in fact demands a more active role of the state, whereas in the west the informal city is idealized because of the minimal state interference it suggests.

Here, it is important to elucidate that the struggle for rights in Brazil is a struggle for ‘positive rights’, as opposed to the plea for ‘negative rights’ from western architects and urban designers. In our understanding, this is a fundamental difference we need to clarify in order to understand the different meanings of informal urbanization in the developing world and in western societies. In the next section, we will describe what are positive and negative rights, which we borrow from Vasak, the first Secretary-General of the International Institute of Human Rights in Strasbourg.

5. Securing negative and positive rights

The whole debate on informal urbanization being currently conducted by architects and urban designers seems to rely on one main assumption: human beings need to be free to shape the city to their own needs and wishes. Formal planning, according to them, is stifling and does not deliver the expected results or worse, delivers undesirable urban environments. In order to elaborate a critique of this position, it is useful to understand what are positive and negative rights, which are described by Karel Vasak (1977). In the struggle for human and civil rights, negative rights are usually the first rights people strive for. Some rights are negative because they offer groups or individuals the rights not to be acted upon in a certain manner. The United Nations Universal Declaration of Human Rights, the U.N. International
Covenant on Civil and Political Rights and the U.N. Covenant on Economic, Social and Cultural Rights recognize a number of ‘fundamental rights’, which are mostly ‘negative rights’, such as the right to self-determination, liberty, fair process of law, freedom of movement, of speech, of thought, of religion, of expression, of assembly and of freedom of association.

The right to freedom of speech is negative ‘in the sense that their respect requires that the state does nothing to interfere with individual liberties’. This gives the state the duty to respect freedom of speech, which asks a relatively passive role from that government. Positive rights, on the other hand, usually represent a ‘second generation’ of rights, according to Vasak. Contrary to negative rights, positive rights require positive action by the State.

Article 25 of the United Nations Declaration of Human Rights, for example, sets forth a number of rights that can considered positive rights, because they rely on collective undertaking and governmental action to be realized: “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control”. In relation to informal urbanization, the negative rights of squatters could mean that they must not be evicted from occupied land by governments. It could also mean that they must be left free to build their dwellings in the best way they can without regards to regulations or building standards. This hostility towards authorities is justifiably omnipresent in the discourse of urban informality. Informal settlers are often confronted with interference of authorities in the form of forced eviction, police violence or corruption, phenomena that are more likely to occur under dictatorial regimes or weak democracies, where negative rights are not respected.

The writings of John F.C. Turner – one of the leading figures in the informality debate – is characterized by his focus on individual liberty and autonomy of informal settlers. In one of his first articles on the theme, he states that ‘the spontaneous conditions [of urban informality] tends to wither and die in the more deliberate embrace of outside agencies (Turner, 1963: 393).’ Too often the building process of the people is frustrated by government agencies and legislative restrictions. Also the much praised concepts of ‘Right to the City’, as first defined by Henri Lefebvre in the 1970s and later by David Harvey are in fact predominantly defined in terms of negative rights. It is a concept that aims at restricting institutionalized planning and giving the power over the production of space back to ‘the people’. David Harvey’s (2008) understanding of the Right to the City is comparable and derived from Lefebvre: ‘a right to change ourselves by changing the city. (...) The freedom to make and remake our cities and ourselves is, I want to argue, one of the most precious yet most neglected of our human rights.’ These are just two examples where the rights of urban settlers are primarily framed as ‘negative rights’.

It would be mistaken to argue that the positive rights of informal settlers are completely overlooked in the architectural urban design discourses about urban informality today. However, we signalize an overemphasis on negative rights, meaning an undervaluation or even rejection of the active role the state and planning institutions. This undervaluation of the role of the state often has its origins in former violations of negative rights of squatters, such as with forced evictions. Another much heard argument is that governments are unable to deal with housing for the poor in developing societies because they are corrupt, inefficient, lacking in funds or all of these things. It is extremely difficult to argue against this point in face of the lack of effective policies for social housing in many developing societies.
But part of this argumentation of the political left is now taken over by the liberal right who also want to reduce the influence of the state in order to increase free market policy. More importantly, if bad governments are notoriously inefficient in providing adequate housing to their populations, does that mean that good government would be equally inefficient? It is understandable that both urban scientists and informal settlers have concerns about an active participation of the state in urban planning and upgrading in developing societies. But we wonder whether this is a reason to dismiss state planning and coordinated societal action. However, if citizens want to benefit fully of their citizenship rights – including the right to adequate housing, a health environment, and basic infrastructure - a significant increase in state actions in necessary in order to realize positive rights for informal settlers. Positive rights – social, economic and cultural – can only happen following coordinated collective action, which means that the role of the State is still crucial, especially in its role as coordinator and facilitator of a myriad of actors working simultaneously. The distinction between positive and negative rights helps us define the role of the State and the institutions with regard to the accomplishment of citizenship rights. This role should be passive when it comes to the respect for the negative rights of citizens, and active when it comes to the execution of the citizens’ positive rights.

6. Conclusions

In this article, we have introduced the increasing interest of architects and urban designers in informal settlements. We have asserted that an idealized image of the favela is projected on western cities in order to illustrate a more dynamic and flexible mode of urbanization. Although the disadvantages of the favelas are moderately acknowledged, favelas are often presented as something westerners ‘should learn from’.

We have then asserted that architects and planners in the West must go beyond the aesthetization of favelas in order to understand what they mean in terms of political struggle for rights. We have used the case of São Paulo as an illustration of what informal urbanization has meant for the process of production of urban space and democratization in Brazil and for the emergence of strong social and political movements that have strived for positive rights and for inclusion of formerly excluded groups into the rule of law. We have argued that there is an overemphasis on negative rights when it comes to discourses on informal urbanisation and we have sought to understand why this happens. We have then advanced the idea that the acquisition of positive rights is desirable and necessary, and citizens all over the world struggle not only to get rid of bad governments, but to get better governments.

We would like to stress the fact that the inhabitants of São Paulo’s informal settlements have faced unbelievable difficulties in their struggle for homeownership. The fact that the great majority of the self-constructed houses were illegally built resulted in a differentiated citizenship: those living in the formal city had access to public facilities, infrastructure, institutions, and security; whereas the informal settlements were often deprived from the most basic necessities such as sewerage systems and piped water. However, the inhabitants of São Paulo’s informal peripheries have realized that the development of their city was closely connected to the extension of their civil rights. This happened with a still ongoing political process of democratization. Urban civil movements were quite successful in politicizing their struggle for recognition of underprivileged citizens as bearers of rights instead of ‘urban lazy and maladjusted’. They created an alternative public sphere of grassroots organizations, which was associated
with ‘their dignity as bearers of rights’ (Holston, 2008), which later resulted in strong social movements that were able to influence the writing of a national constitution.

It is important to emphasize that the near absence of civil rights combined with failing governmental institutions, illegality and poverty is the condition *sine qua non* for the informal city to emerge. In this respect, it is highly questionable that there is anything at all to be learned from *favelas*, except that humans are exceptionally resilient and will try to organize themselves politically under the hardest of circumstances. Without any doubt, *favelas* are often fascinating urban morphologies, and the political emancipation of the excluded inhabitants of informal settlements into the public domain deserves tremendous respect and recognition. We strongly reject all forms of criminalization or victimization of residents of informal settlements. On the other hand, we must also reject the idealization of the *favela*, which is currently taking place in the architectural and urban design discourses, because we believe this idealization takes place because architects and planners in the West do not acknowledge the political injustice that causes such patterns of urbanization.

Architects and urban planners are often hesitant about speaking out against the negative consequences of informal urbanization because their criticism might be wrongly construed and might be used as an argument for the authorities to bulldoze the shacks of the most vulnerable urban settlers. In order to prevent this, architects and planners might tend to minimize the negative aspects of informality and exaggerate the positive aspects. This risk could be neutralized when inhabitants’ ‘rights to stay’ are secured by the rule of law, as the Brazilian City Statute did.

Our belief is that the most important lesson to be learned from São Paulo’s *favelas* is not how informal spaces are technically constructed or improved, or if they are more aesthetically appealing compared to formal housing. What is most important is how a new political and judicial realm came into being through activism, democratization and participation. We are also interested in how governmental institutions have responded to this evolution. This does not mean that all urban problems were solved. Rather on the contrary. However, popular movements together with progressive law-making have created a solid foundation for the development of a more just city.

### 7. References


Urbz is a research platform on urban development and ‘experimental action. It is founded by Matias Echanove, Rahul Srivastava and Geeta Mehta. They have offices in Mumbai and Goa.

World Bank GINI index, accessed on November 24, 2011.

The ABC region is an industrial region in Greater São Paulo. The term ABC refers to the city names Santo André, São Bernardo do Campo, and São Caetano do Sul.

We will describe these amenities and basic services as part of ‘positive rights’ further in the text.