

CITY-CENTERED VALUES

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Abstract

City-centered values are goods related to institutions and human rights in the urban context. The right to the city has been conceived by Henri Lefebvre as a radical challenge for participation of urban dwellers in decision-making, such as spatial planning, and for social inclusion. It has recently begun to be constitutionalized, as it is the case of the 2008 Constitution of Ecuador, which in article 31 regulates the right of persons 'to fully enjoy the city and its public spaces'. The 'right to Tourism Municipality' has not been consecrated, although Tourism Municipality has been introduced in some legal orders of Spanish Autonomous Communities. This institution enables cities, including coastal ones, to develop further their potential as tourism destinations, inter alia through additional financial support. There is a significant tendency of convergence of these urban guarantees, despite their heteroclitic background. Besides, another potentially urban value consists in the port entelechy to hospitality being offered to people and ships. Both the magnificent invention of Aristotle, entelechy, and hospitality are absent from all Constitutions and could be constitutionalized by previewing that 'Hospitality is the entelechy of the port'.

Key words: *city-centered values, maritime values, port entelechy to hospitality, right to the city, right to Tourism Municipality*

Introduction

The term 'polis' declares the city-state but also encompasses the set of rights and obligations of citizens and is strictly related to culture. It would be interesting to focus on certain social and legal values related to the city and potentially to the maritime context, with emphasis on philosophical terms.

First of all, this paper will present the right to the city, an inspired innovation of the French philosopher Henri Lefebvre.

Then, it will refer to a newer institution, such as the Tourism Municipality, in the Spanish legal order.

Afterwards, it will adopt a more specific and detailed approach, to harbors, let alone in the current context of maritimization (Lecoq, 2014). It will look for the intrinsic destination of the port institution.

The right to the city

In a year of intense political and constitutional changes in Europe, 1968, the right to the city was proposed in France by Henri Lefebvre. It was defined as the right of all urban dwellers to participate in the shaping of the city. The philosopher, in his work on "The Right to the City", referred to the role of festivals within the urban space. Festivals are not seen as simply recreational events, but moments that transform and reconfigure the use and meaning of urban space. In this context, festivals can be considered acts that temporarily subvert the everyday order of the city, opening up possibilities for new forms of sociability and appropriation of space by the inhabitants.

In his conception of the right to the city, Lefebvre stresses that people not only have a right to the city in terms of physical access or urban services, but also in terms of their ability to participate in the production and transformation of urban spaces, as it is the case of urban planning. Festivals, with their ephemeral and festive character, embody a form of appropriation and playful use of urban space that escapes the routines imposed by capitalism and urban bureaucracy. They reflect cultural diversity, which can be interpreted as the principle of multiculturalism that can particularly favor minorities and representatives of cultures that do not have easy access to the media. They also illustrate the creativity of urban dwellers, contributing to the construction of a more inclusive and democratic city. They allow the city to be experienced differently, recovering a sense of community and collective participation that is fundamental to the idea of a full "right to the city". Lefebvre criticizes how leisure in modern cities has been commercialized, becoming an extension of work and consumption. Instead of being a space of freedom and creativity, leisure in capitalist cities is often a time subordinated to the logics of the market, in which individuals are consumers rather than creators of their own free time.

It is notable that Lefebvre and Epicurus have visions that, although different in context, seek to transform the human experience for the better. Lefebvre, with his right to the city, emphasizes active participation in urban life as a form of freedom and fulfillment. Through festivals and the creative use of space, citizens reclaim their right to a living and collective city, escaping capitalist and bureaucratic control. On the other hand, the ancient Greek philosopher promoted friendship as one of the highest pleasures, an essential bond that provides peace and happiness in life. His approach stresses the importance of genuine relationships and community to achieve a fulfilling life. Both philosophers' approaches value the importance of community and the creative use of space or relationships to challenge oppressive structures, proposing that true happiness and fulfillment are found in these acts of participation and connection.

Lefebvre's archetypal approach was followed by the urban movements, according to which the economic system and its multiple expressions (real estate developers, large urban renewal projects, tourist industry, police) have a very negative impact on the collective ability of inhabitants to lead fully satisfying lives. Later, the comparable concept of the inclusive city emerged, which is now applied to urban governance.

Urbanization is a strong trend of the 21st century, on a global scale. Slightly more than half of the planet's population now lives in cities. For some years now, The right to the city has been gaining ground in certain non-governmental organizations (NGOs), as witnessed inter alia by the Quito and Barcelona Social Forums in 2004, the World Charter on the Right to the City, popularized by Unesco, the European Declaration on the Right to the City, voted

by the Chamber of Local Authorities in 2005, and the Right to the City Coalition (Paquot, 2012). In general, this right has been promoted internationally, especially through organizations like UN-Habitat, which has supported its inclusion in urban policies. In the 2030 Agenda for Sustainable Development, the governments of the world's States committed to 'making cities more inclusive, safe, resilient and sustainable'.

An emblematic case of recognition of the right to the city consists in its incorporation in the 2008 Constitution of Ecuador, which in article 31 regulates the right of persons 'to fully enjoy the city and its public spaces'. In addition, the Political Constitution of Mexico City, adopted in 2017, includes in its Article 12 the explicit recognition of the right to the City, as follows:

1. *Mexico City guarantees the right to the city, which consists in the full and equitable use and usufruct of the city, founded on principles of social justice, democracy, participation, equality, sustainability, of respect for cultural diversity, nature and the environment.*

2. *The right to the city is a collective right that guarantees the full exercise of human rights, the social function of the city, its democratic management, and ensures territorial justice, social inclusion, and the equitable distribution of public goods with the participation of the citizenry.*

Thus, this right is a guarantee that is proposed as a collective human right that promotes the fair, equitable, sustainable and democratic use of the city, in addition to emphasizing citizen participation in urban decision-making.

The right to Tourism Municipality in Spain

Key concerns of the current era are how to secure ecological sustainability and the universal right to tourism, given that globalization has been conducive to economic crises worldwide and to political instability particularly in authoritarian and undeveloped countries (Maniatis, 2016). As far as the Spain is concerned, the institution of the tourism municipality appears with the approval of Law 7/1985 on Bases of Local Regime. Distancing itself from the tradition of the Regulation of services of the Local Corporations, approved by decree of June 17, 1955 that consecrates the municipalization like form of development of the activity of the municipality for the benefit of the economic services of its competition, assuming the risk of the Company by means of the power to regulate it and to control its regime, the Law uses the expression 'municipalization' only at the time of establishing the attributions of the plenary ones of the City councils and the regime of majorities applicable to the adoption of its agreements (Miguez Macho, 2017). However, it opens up a new potential role for the municipalities. It does not contemplate the figure of the tourism municipality in itself configured, but leaves open the possibility of creating special municipal regimes for those municipalities "that gather other characteristics that make it advisable, like its historical-artistic character or the predominance in its term of tourism activities..." (Melgosa Arcos, 2011). Most of the Autonomous Communities have refrained from creating the category of tourism municipality, while those that have institutionalized it have not adopted a uniform regulatory treatment. These regulations are adapted to the particularity of a municipality that, due to its tourism attractiveness, has to take care of a high number of tourists, and they look for to ensure the quality of the services offered to them.

As regards the legislation of the Autonomous Community of Andalusia, the legal analysis of the applicable decree 72/2017 ends up to the conclusion that quality is the main

objective while the purpose of this regime is not to compensate for the higher costs incurred by the influx of visitors, particularly in case of seasonality of demand, but to maintain and raise the tourism attractiveness of the municipality (Carmen Núñez Lozano, 2018). It is an approach focused on the tourism sector of the economy, considered as a strategic economic element of Andalusia, according to article 37.1.14 of its Statute of Autonomy, which is comparable to the constitutionalization of the tourism sector ("Touristik" instead of "Tourismus", in German) in East Germany, in 1968.

Furthermore, it is noteworthy that in the Andalusian system considerable quantitative limitations of a demographic nature have been institutionalized. On the one hand, the premise to be able to obtain the status of "Tourism Municipality of Andalusia" is to have a population of no more than one hundred thousand inhabitants. On the other hand, it is important to note that this decree has eliminated the requirement that the municipality has more than five thousand inhabitants, introduced in the 2006 reform and, according to the doctrine, of dubious legality. The substantive requirements to achieve the status of tourism municipality are related to:

- a. The assisted tourist population, constituted by those who do not have the status of neighbors of the municipality, but have temporary stay, in the same for reasons of tourism visit or overnight stay in tourism accommodations,
- b. The tourism offer, which must have such consistency and attractiveness that it is capable of generating a flow of visitors to the municipality,
- c. The municipal plan for tourism quality that contemplates the measures of improvement of the services and benefits,
- d. The elements of valuation, among which the element "*m) Existence of an urban planning that contemplates the endowments of free spaces and others that fulfill the minimum reserves foreseen by the urban planning legislation, justifying its incidence on the assisted tourist population*" (Rivero Ysern, 2008).

On the one hand, the declaration of a municipality as tourism municipality implies obligations for the Administration of the Autonomous Community of Andalusia, which will be obliged to consider it as a priority in the actions of planning and promotion of its economic plans when it is compatible with the objectives of the same and, where appropriate, with the finalist nature of its financing. Essentially, the right of the tourist municipality to be a beneficiary of the management and promotion actions of the sectorial economic plans has been consecrated. It should be noted that the legislation on the matter avoids using the term "right" for the legal relationship of the municipality involved vis-à-vis the Autonomous Community, which shows a conservative spirit, perhaps to protect the economic resources of the Autonomous Community against an enforceable right. However, fundamental rights belong not only to natural persons, such as citizens, and legal persons under private law, illustrated by the majority of companies, but also to legal persons under public law that are part of the institution of local self-administration. In addition to the above, at the juridical level it is unusual to regulate a legal relationship by referring to obligations or duties of one party and at the same time not to symmetrical rights of the other party.

On the other hand, the tourism municipalities must carry out actions aimed at promoting and improving the actions and services with an impact on the tourism activity. Other obligations that are directly imposed are the following:

- a) *To introduce mechanisms of citizen participation and of the economic and social agents in all the processes of tourism planning that are carried out.*

b) *To integrate the conservation of the cultural and natural patrimony in the tourism planning, paying special attention to the intangible patrimony and to the values, customs and own traditions of the municipality.*

c) *Promote universal accessibility of local tourism resources.*

d) *To promote tourism that respects the environment and its inhabitants, that takes into account the carrying capacity of the destination and is aware of the limited natural resources of the territory.*

e) *To raise awareness among the local population and the assisted tourism population of the importance of responsible tourism practices, promoting egalitarian, educational and outreach activities on tourism and sustainable development.*

It should be emphasized that the reference to the intangible heritage and to the values, customs and traditions specific to the municipality is original, within the framework of the rules of the Autonomous Community on tourism municipality. It is an opening, among others, to the maritime values of tourism municipalities in the coastal area of the Autonomous Community, such as Roquetas de Mar and Níjar in Almería, Tarifa and Conil de la Frontera in Cádiz, as well as Almuñécar in Granada and several localities in the province of Málaga such as Nerja, Benalmádena and Torremolinos. The number of municipalities officially recognized as "Tourism Municipalities of Andalusia" has been 46. However, throughout the decree there is no word "hospitality", which could perhaps be considered as implicit, among others, in this point. In any case, it is problematic to regulate in detail the category of the tourism municipality, without highlighting the value of human rights and fundamental principles of direct relation with tourism, such as the right to safe travel and the principle of hospitality, while the institution of the tourism municipality, itself, is not institutionalized, at least explicitly, as an authentic "right".

The port entelechy to hospitality

Instead of giving terms to literature, as Plato did, Aristotle built the terminology of science and philosophy we can hardly speak of any science today without employing terms which he invented; they lie like fossils in the strata of our speech: *faculty, mean, maxim* (meaning, in Aristotle, the major premiss of a syllogism), *category, energy, actuality, motive, end, principle, form* – these indispensable coins of philosophic thought were minted in his mind (Durant, 2006). Besides, development is not haphazard or accidental (else how could we explain the almost universal appearance and transmission of useful organs?); everything is guided in a certain direction from within, by its nature and structure and entelechy (Durant, 2006); the egg of the hen is internally designed or destined to become not a duck but a chick; the acorn becomes not a willow but an oak. It is to underline that Aristotle invented a complex word on the matter, consisting in entelechy (*entelecheia*) – having (*echo*) its purpose (*telos*) within (*entos*); one of those magnificent Aristotelian terms which gather up into themselves a whole philosophy (Durant, 2006).

The entelechy has been recently used to localize the inner destination of harbors (Maniatis, 2024). More precisely, the port has a diachronic, intrinsic purpose, strictly related to the ideal of safety and security of both people and ships, which consists in hospitality, a term thoroughly omitted until the emergence of this theory. Moreover, the principle of hospitality is a taboo, not only in the port context. The concept of the port as a public institution offering hospitality even to foreign-registered ships has been reinforced historically,

after the Middle Ages in Europe, on the basis of the gradual improvement of seaports and coastal states. From the 15th century onwards, this is the case with important institutions and developments, such as the domination of ports by European monarchs, the emergence of the territorial sea as a zone of sovereignty of the coastal State and the introduction of maritime cabotage. To the extent that coastal countries with traditional military and maritime power were strengthened in legal and empirical terms, they could transfer their strength to the expression of economic activities, such as fishing and shipping, and above all to hospitality, against natural and social dangers. Hospitality constitutes by nature a form of welcome, inclusion and shelter by a person or a social group that is endowed with sufficient material goods, such as residence, to a person in need.

Besides, the aquatic abysses symbolize the hospitality offered to living species. Throughout the vast isothermal zone, known as the "hypolimnion", temperatures are extremely stable, ranging from 0.5°C to 4°C (Cabé). The density of water is greater than 4°C and, as a consequence, the temperature at the bottom of a lake or ocean does not drop below 4°C (because colder waters are lighter), something that allowed life forms to survive during the coldest geological periods (Pech). Consequently, the sea or a lake has been a kind of true refuge for biodiversity, so that these aquatic spaces have proven to be hospitable par excellence in situations that are not very favorable for the survival of species. It is worth noting that the Greek word for harbor, namely "limén", and the word "hypolimnion" share both etymological origin and functioning. In conclusion, hospitality is the entelechy of the port, which serves as a foundation for an anthropocentric and integrative approach to the maritime context.

As far as the word "marina" is concerned, in the tourism field it refers to a port specialized in providing services and facilities for recreational vessels, such as yachts, sailboats and motorboats. The first marinas on a global scale emerged in the second half of the 19th century, coinciding with the rise of luxury tourism and recreational boating among the European upper classes. During the 1950s and 1960s, there was an exponential growth in the construction of marinas in areas of tourist interest, such as the Mediterranean and Caribbean coasts, aimed at the growing demand for recreational boating. The concept of the modern marina developed as nautical tourism grew as a recreational activity for economic elites and expanded to broader sectors, becoming an integral part of coastal tourism in many parts of the world.

Unlike commercial or industrial ports, marinas are designed specifically for private vessels and offer a suitable infrastructure for nautical tourism. It is a tourism port that has facilities for mooring and berthing recreational boats, and services such as fueling, electricity, drinking water and boat maintenance. It should be emphasized that the marina is not merely intended for individuals with tourist boats, but is also combined with leisure infrastructures, such as restaurants, nautical stores, and in some cases, nearby hotels or resorts. In many cases, marinas offer boat rentals and other recreational activities centered on sailing.

These public spaces promote the constitutional right to teaching and education, and also indirectly the related right to research, in the field of marine-related leisure and maritime tourism. Hobbyists have the opportunity to attend specialized schools there, such as sailing or diving, which can contribute to the ecological and cultural awareness of the participants. This development is comparable to a project of the French State, within the framework of the second National Strategy of the Cuesta Sea, which covers the period 2024-2030. This project

consists in “*Using tourism, leisure activities and MEAs (educational marine areas) to turn the coastline into the first space for environmental education*”(Gouvernement)

The operation of a marina is sometimes not without problems, such as coexistence with the inhabitants of the city of reference. For example, a measure was implemented to prohibit nighttime access to the marina in the Greek city of Kalamata. This ban resulted from a court decision in the first half of the 2000s, but did not become permanent practice. Finally, the company entrusted with the management of the marina opted for a liberal approach, so that today it guards the area, through its own personnel, thus ensuring safety. It is noticeable that in reality there is a risk, not only at night but also during the day, of crimes being committed against the interests of the private individuals involved. It is not first and foremost the local businesses, such as restaurants, but the property of the users of the marina facilities that are at risk. It is the general principle of hospitality and above all the people’s right to the city that emerged victorious in this case, which has an unusual jurisdictional dimension, if not unique, at least as far as Greek marinas are concerned.

Conclusion

The aim of this study was to investigate certain city-related values, illustrated by urban maritime values. It ends up to the conclusion that the right to the city is an important guarantee, which recently has gained territory. This is true even at the constitutional level, for the first time in the 21th century. It is about a realistic, inclusive approach to cities, especially to industrialized big cities which constitute an important place of attraction for both immigrants and tourists, such as Paris. The French capital —and more specifically, the transformations it underwent in the 19th and 20th centuries—provided a critical backdrop for Lefebvre’s reflections on urban space, capitalism, and social struggles.

Furthermore, although the concept of tourism municipalities is not often explicitly mentioned within the doctrine of the right to the city, there is a clear relationship between the two phenomena, for example, in the sense of how citizens participate in the planning and management of their environment. Tourism municipalities are localities whose economic development is centered on tourism, which can generate tensions with respect to the rights of permanent residents. In this context, the right to the city could be interpreted as the defense of the interest of local inhabitants against the effects of tourism exploitation that, in some cases, prioritizes the needs of visitors over those of residents.

In the Spanish legal system, there is no direct reference between the right to the city and tourism municipalities, but the regulations institutionalize public open spaces as one of the criteria for a municipality to qualify as a “tourism municipality”, while the question of people’s access to the city’s public spaces is a key element of the content of this right in comparative law. Spanish regulations aim to manage the impact of tourism and balance it with the rights and quality of life of residents, something that could be considered aligned with the principles of the right to the city insofar as they advocate an equitable use of urban space and citizen participation in its development. It should be emphasized that some of the aforementioned obligations of the Tourism Municipality of Andalusia, particularly obligation number e), are very indicative of the need to develop responsible tourism, compatible with the rights of the inhabitants of the city visited, essentially their right to their own city.

To the extent that the port is part of a tourism municipality, it is endowed with the two above-mentioned urban values. In any case, it includes its own value, which is the Aristotelian

magnificent invention consisting in entelechy. The telos of entelechy is a rather marginal and controversial ideal, hospitality to various entities, such as inter alia persons and ships. This form of entelechy is a self-existent guarantee, which is not limited to the rights of the persons involved or to a mere principle.

The intrinsic character that is typical of the philosophical concept of entelechy ties in with the natural character of the hospitality offered by the waters of the sea or the lake towards biodiversity in the hypolimnion zone while the etymology of the Greek words for port and lake suggests the contribution of both entities to hospitality.

Such an approach is accentuated with regard to the tourist port par excellence, which consists in marina. Not only the marina but also the other types of port would deserve a sustainable development approach, against phenomena of multipurpose deconstruction, which diminish their usefulness and prestige.

All in all, we must emphasize that the present work highlighted the existence of a system of novel city-centered values, with philosophical background, which are much or less recognized at juridical level. Furthermore, it puts the stress on the concept of entelechy, which should gain territory at the constitutional level, as a new term, especially as far as the category of constitutional guarantees are concerned. For instance, it is recommended to preview that ‘*Hospitality is the entelechy of the port*’. In such a case, the novelty would be double, given that no Constitution on global scale makes an explicit reference to hospitality...

Hospitality is not only the entelechy of the port, but also the offer of nature.

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