Original article http://dx.doi.org/10.18623/rvd.v21.2459-ing

THE REVISIONAL LEGISLATIVE PROCESS IN URBAN POLICY AND ITS FOUNDATIONS: DEMOCRACY AND SUSTAINABILITY

THE REVISIONAL LEGISLATIVE PROCESS IN URBAN POLICY AND ITS FOUNDATIONS: DEMOCRACY AND SUSTAINABILITY

Article received on: 10/23/2022
Article accepted on: 12/14/2023

Samuel Santos
Universidade Federal de Santa Catarina (UFSC), Florianópolis/SC, Brazil
Lattes: http://lattes.cnpq.br/2275146834102056
Orcid: https://orcid.org/0000-0002-1614-7977
samuelmartinsdossantos.1977@gmail.com

The author declares no conflict of interest.

Abstract
The article's theme is urban legislation, with an analysis of the resolution from the City Statute (Law n. 10.257/2001) which deals with the periodic review of the Master Plan every ten years. The problem of the article is summarized as follows: What is the revisional legislative process and how does it relate to the guidelines of urban policy for democratic management and the right to sustainable cities? And what are its possibilities and limits for urban policy? The objectives of the research are to relate this characteristic with specific elements of urban legal dogmatics and indicate the existence of a diffuse right to the revisional legislative process as an instrument for improving urban policy instruments. The research was developed with the application

Resumo
Este artigo tem como tema a legislação urbanística, com análise da determinação exposta no Estatuto da Cidade (Lei n. 10.257/2001, art. 40, § 3º) que trata da revisão periódica do Plano Diretor a cada dez anos. O problema do artigo é resumido da seguinte forma: O que é e quais são as relações entre o processo legislativo revisional e as diretrizes da política urbana de gestão democrática e do direito a cidades sustentáveis? E quais são suas possibilidades e limites para a política urbana? Os objetivos da pesquisa são relacionar tal característica com elementos específicos da dogmática jurídica urbanística e indicar a existência de um direito difuso ao processo legislativo revisional como instrumento de aprimoramento da política urbana, do que resulta a pertinência do

of the deductive method and bibliographic technique, relating the characteristics of the revisional legislative process with democratic theories and Environmental Law. As a result, it was found that the recognition of such a link is fundamental for understanding the relationships between urban legislation and the temporal dynamics of urban space, respect for democratic deliberation, and sustainable planning.
Keywords: democracy; legislative process, sustainable cities; urban planning.

reconhecimento do princípio do revisionismo legislativo. A pesquisa foi desenvolvida com a aplicação do método dedutivo e da técnica bibliográfica, relacionando as características do processo legislativo revisional com as teorias democráticas e o Direito Ambiental. Como resultado, verificou-se que o reconhecimento de tal vínculo apresenta-se fundamental para a compreensão das relações da legislação urbanística com a dinâmica temporal dos espaços urbanos, o respeito à deliberação democrática e ao planejamento sustentável.
Palavras-chave: *cidades sustentáveis; democracia; processo legislativo, planejamento urbano.*

Introduction

This research delves into an interdisciplinary realm encompassing Urban Law, Democratic Theories, and Environmental Law. Within this context, the focal point of this study revolves around urban legislation, specifically the establishment of absolute deadlines for the revisionary legislative processes associated with the Master Plan and its correlated laws.

An uncommon attribute arises in the City Statute (Law No. 10,257/2001), which delineates revision deadlines for existing norms. This differs from the norms of Public Law, in which laws adhere to general legislative techniques, aspiring to endure permanently. In this framework, a law is only revoked if it clashes with a subsequent norm or if there is a duly expressed provision for such revocation.

From this standpoint, we may formulate the central problem and ancillary issues of this article: How to decipher the implications and interconnections between revisionary legislative processes, democratic management principles, and the assurance of the right to sustainable cities? What are the possibilities and constraints of this characteristic for Brazilian urban policy post the 1988 Federal Constitution? Can the revisional legislative process be acknowledged as a diffuse right aimed at safeguarding the urban order?

As a hypothesis, it is posited that the urban policy guidelines outlined in the City Statute (Law No. 10,257/2001, Article 2), such as democratic management and the assurance of the right to sustainable cities, could be considered foundational to the unique processes of revisional legislation within the field of Urban Law.

Furthermore, it is essential to underscore the specificity of revisionary legislative processes, emphasizing the importance of recognizing the right to such processes as having a diffuse nature.

In elucidating these hypotheses, this study will emphasize that the relationship between the revisional legislative process and the democratic management guideline implies the relevance of recognizing the link between Urban Law and contemporary democratic theories, including a focus on those on pluralistic societies, which conceptualize contemporary institutions as models for managing uncertainty in the decision-making process.

Subsequently, the research will present the urban policy guidelines aimed at ensuring the right to sustainable cities and sustainable planning. These guidelines will be presented as foundational principles and justifications for the necessity of periodic reviews of urban legislation, particularly due to the intergenerational characteristics inherent in the concept of sustainability.

In conclusion, by recognizing these two guidelines, outlined in the City Statute (Law No. 10,257/2001), as foundations of the revisional legislative process, the establishment of the duty for a periodic review of the Master Plan and related legislation will be underscored as a diffuse right necessary to protect the urban order.

The justification for such a proposition is rooted in various factors: the first being sociological; the second, related to advancements in research within the realms of Urban Law and Environmental Law; and, finally, considerations regarding potential institutional models within democratic regimes. From a sociological perspective, it is worth noting that Brazilian Law is characterized as positivist, and instances arise where the wording of legal norms may be confused in their implementation, a phenomenon observed in the fields of Urban Law and Environmental Law, with analyses highlighting the relevance of addressing challenges in implementing normative content already established in legislation. Finally, an institutionalist justification underscores the imperative for literature to confront challenges arising from democratic normativity. Therefore, as urban legislation furnishes the aforementioned overarching guidelines, it becomes essential to delve into analyses of the implications of these principles in urban legislation.

The initial segment of this work should elucidate revisional legislative processes and the legal principles of Urban Law. Subsequently, a correlation will be drawn between this characteristic and the broader directives of democratic management and the assurance of sustainable cities to establish a strategic approach for enhancing the foundation and facilitating reflection to improve urban policy.

1 Revisional legislative processes and principles of urban law

The regular assessment of the Master Plan and associated institutions is directly linked to the intersection of urban legislation with the principles of democratic management and the commitment to sustainable cities. In addition to the significance of acknowledging this connection, it has the potential to strengthen the recognition of the revisional legislative process as a diffuse right, emphasizing its role in bolstering democratic legitimacy and aligning urban legislation with environmental considerations.

This issue deals with a pivotal aspect of law and democracy by addressing the challenge posed by the decision-making process over time, which becomes intricate due to the inherent difficulty in making conclusive and irrevocable decisions for the present generation, considering the risk that such decisions might foreclose the possibility of review by future generations (Santos; Oliveira, 2022; Consani, 2018).

The legislative mandate for the periodic review of the Master Plan and related legislation should be perceived as a challenge for lawmakers and legal scholars, aiming to enhance and refine existing legislation. At this juncture, the perspective advocated by Schumpeter (2017) becomes relevant, as he recognizes democracy not merely as an abstract concept but as a practical political method—an institutional framework for making political decisions. If constitutional principles dictate that all power derives from the people, "how is it technically possible for 'people' to rule?" (Schumpeter, 2017, p. 333;).

The proposed theme allows for analysis beyond the generalities outlined in the constitutional text and the City Statute (Law No. 10,257/2001), shifting the focus towards the essential institutional models that must be devised to effectively implement the content generally outlined in these legislative frameworks. Moving beyond theoretical formulations of democratic management in urban policies and exploring the legislative and administrative techniques for their execution reveals potential risks that cannot be assessed without meticulous analysis (Bucci, 2021).

The question also prompts a reconsideration of the analysis of the legislative process, urging a perspective that extends beyond a mere set of procedures, viewing it as an institutional realm where Civil Society interacts with state bodies, encapsulating a plurality of phenomena indicative of conflicts and solutions on urban projects, even if temporary. Hence, the lingering question is: how to reconcile the postulate of periodic legislative review with the principles of Urban Law?

Silva (2018) points out the existence of the following principles of Urban

Law: 1) the principle that urbanism is a public function; 2) the principle of urban property adequacy; 3) the principle of dynamic cohesion of urban norms; 4) the principle of allocation of capital gains to the cost of urbanization; and 5) the principle of fair distribution and benefits and burdens derived from urban planning activities.

In this research, a new principle of Urban Law will be proposed—that of legislative revisionism. This normative postulate establishes criteria of democratic legitimacy and environmental suitability for the revisional legislative process, aiming to differentiate it from other legislative processes, considering its specificities and foundations.[1]

Examining the principles outlined by Silva (2018), the analysis closely aligns with the so-called principle of dynamic cohesion of urban norms, whose effectiveness primarily resides in normative sets (procedures), rather than isolated norms. While the principle of dynamic cohesion of urban planning norms is relevant to the ongoing debate, it is believed that institutional, dogmatic, and procedural specificities justify the recognition of a separate foundational principle, distinct from existing ones.

Likewise, in the principles of Urban Law presented by Oliveira Filho (2006), several points are highlighted, including interdisciplinarity, defense of the egalitarian doctrine, specialty of its standards, democratization of its procedures, mobility of its standards, commitment to the environment, discriminatory and inegalitarian nature of urban planning, and complexity of legal norms.

The principle of mobility of Urban Law norms is particularly noteworthy, aligning with the proposed debate. However, it is crucial to note that the two expressions are not considered synonymous, given that the principle of mobility proposed by Oliveira Filho (2006) is more closely related to the potential changes in urban planning laws rather than exclusively to the guidelines of democratic management and the right to ensure sustainable cities.

Thus, this article purposefully seeks to establish a connection between the revisional legislative processes mandated by urban legislation and the overarching principles of democratic management and assurance of sustainable cities. The goal is to underscore that the demand for periodic reviews of the Master Plan is a distinctive characteristic of this legal field, a recognition that is vital for

1 The intended debate proposed in this text revolves around the significance of acknowledging the revisional legislative process as a distinct form of legislative procedure. Drawing a parallel to the Brazilian legal system, an example of another legislative process receiving special treatment is that of budgetary laws. Similarly, it is argued that the revisional legislative process for urban legislation should also be subject to unique procedural considerations.

comprehension and for understanding the potentialities and limitations inherent in these processes.

The principle of legislative revisionism imparts normative substance to the stages of reviewing urban legislation, initially focusing on its democratic legitimacy and subsequently addressing sustainability parameters, which involves assessing both current legislation and future projections. This goes beyond a routine legislative approval; instead, entailing a comprehensive and meticulous evaluation guided by a broad set of regulations, as detailed below.

2 The revisional legislative process and the guideline for the democratic management of urban policy

Brazilian redemocratization presented an unprecedented opportunity for popular involvement in the constitutional legislative process. As highlighted by Bassul (2010), the Popular Amendment of Urban Reform, was one of 83 popular amendments meeting regulatory criteria and being deemed suitable for voting in the constituent process.

This amendment, drafted by *Federação Nacional dos Engenheiros* (National Federation of Engineers), *Federação Nacional dos Arquitetos* (National Federation of Architects), and *Instituto de Arquitetos do Brasil* (Institute of Architects of Brazil), garnered support from entities such as *Articulação Nacional do Solo Urbano* (National Articulation for Urban Land), *Coordenação dos Mutuários do BNH* (Coordination of BNH Borrowers), and *Movimento em Defesa do Favelado* (Movement in Defense of Favela Dwellers). The amendment also had the support of 48 local or regional associations and secured 131,000 signatures (Bassul, 2010).

As a result, the 1988 Federal Constitution was extensive in its coverage of urban planning and environmental rights, earning it the moniker "The Green Constitution". This marked the first instance of a Brazilian Constitution featuring a dedicated chapter on urban and environmental policies. Notably, the discourse between these two legal domains in Brazil consistently faced significant political resistance, primarily due to its impact on the regulation of property law.

Consequently, social movements played a pivotal role in advocating for urban reform, disseminating the cause through various popular movements and social segments, as well as through the National Forum for Urban Reform, fostering organization within universities, NGOs, and other means of social mobilization. The legislative outcome of this discourse materialized in the City Statute (Law No. 10,257/2001); a legislation hailed as a milestone by experts in the field. The law

is structured on two pillars: one characterized by principled aspects and the definition of general guidelines, and the other comprising urban policy provisions to be implemented in each municipality based on its specific conditions (Maricato, 2017).

Thus, it can be asserted that Urban Law in Brazil maintains an intrinsic connection with democracy. The urban reform agenda served as a unifying element during the democratic transition in the 1980s, despite the ongoing challenges over the effective implementation of environmental and urban legislation (Lopes; Di Bernardi, 2022; Santos; Morales, 2019; Dummel; Santos, 2018).

Given these considerations, a pertinent question for the post-1988 Federal Constitution era, within a constitutionally appropriate interpretation, is: What conception of democracy contributes to the principles of Urban Law? This is because the concept of democracy is multifaceted, exhibiting significant variation in its meanings. Depending on the theoretical framework adopted, the conception of democracy for analyzing urban policy guidelines could be highly variable.

Considering the emergence of Urban Law, particularly in the 20th century, and its inclusive and egalitarian characteristics, it is crucial to recognize its direct relationship with the concept of the Social Welfare State. This model involves an inherent competition for building consensus in the functioning of political institutions, as multipartyism and high social complexity pose challenges to making definitive decisions regarding the common good (Przeworski, 1994; Justen Filho, 2023).

In this context, it is necessary to question: What is the predominant conception of democracy in this institutional model? Aiming at characterization, it is possible to point out that the expansion of political and social rights has influenced the development of the concept of pluralistic democracy. According to Silva (2002, p. 143; our translation):

> Pluralism is a fundamental aspect of society, encompassing a diversity of social categories, classes, and economic, cultural, and ideological groups. Choosing a pluralistic society involves embracing a society marked by conflicts, contradictory interests, and antinomic viewpoints. The challenge of pluralism lies in building a delicate balance among multiple and sometimes conflicting tensions, reconciling sociability and particularism, managing antagonisms, and avoiding irreducible divisions.

The constitutional order established in Brazil in 1988 is shaped by the concept of pluralist democracy. The preamble, along with several other chapters, incorporates the principle of political pluralism as the bedrock of the republic, proving essential even in the field of Urban Law.

In this study, Przeworski (1984) serves as a theoretical cornerstone, drawing from his seminal article titled "Democracy as a contingent outcome of conflicts". The author explores how the democratic regime introduces an element of uncertainty for participants concerning the outcomes of the decision-making process.

> In a democracy outcomes of the political process are to some extent indeterminate with regard to positions which participants occupy in all social relations, including the relations of production and the political institutions. […] The point is that under a democracy no one can be certain that their interests will ultimately triumph (Przeworski, 1984, p. 37).

Przeworski's work (1984) could be seen as an evolution of institutionalist analyses, incorporating the identification of uncertainty management as a characteristic element of democratic political regimes. However, the uncertainty referred to here is not absolute, but restricted to a set of institutionally delimited results, and this factor of predictability of results, even if uncertain, makes the democratic model attractive to be adopted by various political groups with different positions.

Thus, aiming to avoid an exclusively formal interpretation of democracy and conceive it in such a way that it can be used to solve complex issues in its operation, Przeworski (1984) moves away from a substantive conception of democracy, as this would make compromises unfeasible among varied groups. Przeworski (1984, p. 38) further elaborates that "one reason why democracy cannot result from a substantive compromise follows tautologically from the definition of democracy: in a democracy, substantive compromises cannot be binding".

From this standpoint, the political actors involved tend to cooperate with the democratic political regime because, in strategic calculation, they perceive it as more advantageous to contribute to a regime where they lack control over the final decision than risk the procedural gains obtained from democratic institutionality and engage in power competitions in which the results, in addition to being uncertain, can be entirely unpredictable.

According to Przeworski's (1994) analysis, overly substantive legislation loses appeal for the various political actors within a democratic regime since defining public policies in alignment with the interests of a specific group inevitably leads opposing groups to face non-compliance with these standards or engage in constant attempts to alter the legislation post-publication. In this context, Przeworski (1994, p. 46) outlines the characteristics of consolidating democracy:

> A democracy is consolidated when, under given political and economic conditions a particular system of institutions becomes the only game in town, when no one can imagine acting outside democratic institutions, when all the losers want to do is to

> try again within the same institution under which they have just lost. Democracy is consolidated when it becomes self-enforcing, that is, when all the relevant political forces find it best to continue to submit their interests and values to the uncertain interplay of institutions.

And what is the relationship between this and the duty of state bodies in implementing revisionary legislative processes (Law No. 10,257/2011, Article 40, § 3)? And the democratic management guideline for urban policy provided for in Article 2 of the City Statute?

Cities are characterized by an extensive degree of political plurality, with various actors participating in the deliberation and execution of urban policies. Particularly in Brazilian cities, marked by profound material inequalities and exclusions of vulnerable groups, a myriad of projects for the future of cities is in constant dispute.

In this intricate and diverse urban landscape, mere formal references to democratic management prove insufficient to meet the expectations for the democratic legitimacy of urban legislation. The notion of democratic management as a guiding principle for urban policy might suggest the possibility of achieving a majority consensus on crucial decisions over the city (Carvalho; Casimiro; Machado, 2023).

However, a nuanced perspective on democratic management, situated within capitalist and unequal societies with a belated formation and a high degree of pluralism, along with legislation possessing a robust interventionist nature to safeguard basic social rights in urban spaces, require a more intricate understanding of the democratic management directive within urban policy. In this context, comprehending the democratic management of the city involves contemplating the relationships between institutional models and inherent political conflicts present in societies with such characteristics (Miguel, 2017).

Beyond the diversity of political actors, interests, and proposals related to cities, it is paramount to recognize the volatility of the majority criterion typical of democratic regimes. That is, if a city project secures approval in a Master Plan in 2023 through alliances between specific political actors, there is no guarantee it will be upheld ten years later in 2033, as the balance of power may change.

Confronted with such plurality, a city project emphasizing egalitarian principles may face defeat by a vision favoring a city designed for major events, mobilized to attract capital investments without necessarily improving the living situation of its residents. This is, therefore, an inherent risk in a regime that submits to majoritarian deliberations (Dahl, 2012).

Another potential variable is a shift in the majority's behavior resulting from the learning process and past decision errors. Even a majority endorsing a particular urban planning concept laid out in the Master Plan may, over time, reconsider its decision, deeming it incorrect or revealing unanticipated consequences. This opens up the possibility of the majority consensus altering its stance on a fundamental urban policy question.

In the context of urban policy in Brazil, we must acknowledge that cities encapsulate all the manifestations of an unequal society in their spatial reality. Consequently, the discourse on democratic management must not only consider the prevailing majorities in deliberation but also identify those who will be impacted by a given urban policy. It is necessary to recognize that the inequality and vulnerability that plague social groups prevent their more effective participation in deliberative processes, placing the majority conception of democratic management itself under suspicion.

To prevent mere formal democratic management[2] or majority deliberations with pseudo-participation (Arnstein, 2002), a material interpretation of democratic management in urban policy implies an obligation for Public Administration to develop methodologies that facilitate and encourage the participation of groups facing formal or material barriers in accessing the decision-making process.

Considering this objective, we must highlight the existence of methodologies and institutional designs capable of mitigating social inequalities and enhancing participation in the deliberative processes of urban policy. In a significant analytical and comparative work, Fung (2004) outlines institutional options available to Public Administration with a positive impact on the enhancement of the quality of political deliberation. Such designs take into account the size of the group involved in the deliberation, the subjects to be debated, and the forms of composition to facilitate the most relevant decisions.

The initial consequence of the implementation is an augmentation in the diversity of groups represented in the discourse on urban policy, leading to an increase in the number of city projects to be considered. Another likely outcome is an escalation in political contention surrounding the city project that emerges victorious in this legislative process, accompanied by conflicts stemming from this

2 Since the implementation of the City Statute, instances have been identified where municipal Public Administration failed to ensure compliance with the democratic management guideline in the implementation of urban policy. An illustrative case unfolded in the municipality of Florianópolis, in the state of Santa Catarina, between 2004 and 2018, where the lack of effective democratic management prompted a public civil action initiated by the Federal Prosecutors' Office (Case No. 5021653-98.2013.404.7200/SC) (Santos; Morales, 2019).

array of projects.

It is essential to highlight that, within a conception of pluralist democracy that acknowledges conflict as an inherent element, recognizing that fundamental decisions over the city will not be confined to a majority consensus, there may still be consensus with ongoing dissent in this deliberative process.

While the alignment of Urban Law with democratic theories might appear somewhat relativistic, departing from an exclusively formal conception of the democratic management guideline suggests crucial elements for refining deliberative methodologies on urban policy, a shift that enables advances in implementation and greater prevention of potential limitations and risks.

In this context, the identification of the revisional legislative process and its foundation within the democratic management guideline holds significant potential for advancing the understanding of Urban Law and its characteristics, establishing a connection between legislative institutional design and the essential attributes for expanding legitimacy and enhancing urban policy.

3 The revisional legislative process and the safeguarding of the right to sustainable cities

Within the urban policy guidelines, the City Statute (Law No. 10,257/2001, Article 2, I) provides for the guarantee of the right to sustainable cities. As intended, this guideline can be identified as a basis for the need for periodic review of the planning established in urban legislation. Pursuant to Article 2 (Brasil, 2001; our translation):

> Article 2 Urban policy aims to order the full development of the city's social functions and urban property, through the following general guidelines:
> I – the guarantee of the right to sustainable cities, understood as the right to urban land, housing, environmental sanitation, urban infrastructure, transport and public services, work and leisure, for present and future generations.

The purpose of this discussion is to elucidate the concept of a sustainable city and present its constituent elements as the basis for the obligation of periodic review of the Master Plan, directed at state bodies, and the diffuse rights of civil society.

The core problem can be encapsulated within the following inquiries: What is the relationship between the revisory nature of urban legislation and the assurance of the right to sustainable cities? What are the positive and negative aspects of this relationship concerning the legislative process of urban planning?

Choguill (2003) notes that the concept of sustainable cities is relatively recent, posing challenges in its definition. One of the underpinning sources for this formulation stems from the thematic closeness between Urban Law and Environmental Law. However, it is essential to note that this proximity should not automatically imply the transposition of the concept of environmental sustainability to that of sustainable cities.

A milestone in acknowledging the principle of sustainable development in Environmental Law was the *Brundtland Report*, prepared by the World Commission on the Environment and published in 1987.

> The concept of sustainable development is found in many environmental treaties and other instruments, including several concluded in the period prior to the publication of the Brundtland Report in 1987. Nevertheless, the Brundtland Report is commonly viewed as the point at which sustainable development became a broad global policy objective and set the international community on the path that led to "international law in the field of sustainable development" (SANDS *et al.*, 2012, p. 9,)[3].

The *Brundtland Report* defines sustainable development as a development that "meets the needs of the present without compromising the ability of future generations to meet their own needs" (Brundtland *et al.*, 1987, p. 16). The principle of sustainability is highlighted by the recognition of the finiteness of natural assets available for human use and exploration. In this succinct concept, two points deserve detailed analysis, allowing for a division into three parts: two polarized in the present and a third part concerning the potential tension of the present concerning the future.

> "It contains within it two concepts: (1) the concept of 'needs', in particular the essential needs of the world's poor, to which overriding priority should be given; and (2) the idea of limitations imposed, by the state of technology and social organisation, on the environment's ability to meet present and future needs" (Sands *et al.*, 2012, p. 206)[4].

3 "The concept of sustainable development is found in many environmental treaties and other instruments, including several conclusions in the period prior to the publication of the Brundtland Report in 1987. However, the Brundtland Report is widely regarded as the milestone where sustainable development evolved into a comprehensive global policy objective, setting the international community on the trajectory that culminated in the development of 'international law in the field of sustainable development' (Sands *et al.*, 2012, p. 9).

4 "It contains within it two concepts: (1) the concept of 'needs', in particular the essential needs of the world's poor, to which overriding priority should be given; and (2) the idea of limitations imposed, by the state of technology and social organisation, on the environment's ability to meet present and future needs" (Sands *et al.*, 2012, p. 206).

The initial aspect, i.e., the correlation between development and need, can pose significant obstacles to its overcoming. The inquiry must focus on identifying the recipients of this development and subsequently answering a crucial question: to which need does the concept refer?

The tension between development and need is recurrent and surfaces in several spheres. The term 'development' is entwined in discussions on economic development, where natural resources serve as constant sources of exploitation. It is worth highlighting that the concept of sustainability is not opposite to development; instead, it seeks to establish boundaries and exercise caution in its pursuit. The groups promoting development generally do not align with those presenting vital needs concerning nature, introducing tension of a social and economic nature at this point. If, on one hand, the principle of sustainable development imposes limits on the exploitation of natural resources for those exploiting them, on the other hand, groups characterized by vulnerability find in the same principle of sustainable development the guarantee of legitimacy for the exploitation of natural resources to meet their presented needs.

The second component of the sustainable development principle addresses the tension between exploiting present resources and ensuring the availability of these natural assets for the future, explicitly outlined in Article 2 of the City Statute. This is an intergenerational debate, which identifies future generations as creditors of protected legal assets, whether the environment or sustainable cities. Due to its intergenerational nature, the principle of sustainable development lacks a definitive character. This intentional flexibility prevents a rigid interpretation, as doing so could limit the interpretive possibilities available to future generations, risking the present interpretation taking precedence.

In this context, it is crucial to introduce certain aspects of the concept of sustainability within the realm of Environmental Law. According to Machado (2013, p. 71; our translation),

> the concept of sustainability is grounded in at least two criteria. Firstly, human actions are scrutinized in terms of their effects over chronological time, with a focus on studying these effects in both the present and the future. Secondly, when forecasting the future, research is required to understand which effects will persist and the consequences of their duration.

As explained by Machado (2013), the principle of sustainability is intricately linked to the passage of time, emphasizing the need to consider relationships between the past, present, and future when measuring the guarantee of sustainability. Notably, the concept of sustainability initially emerged as a reference to the

prolonged use of a given asset without exhausting its potential. Subsequently, it became associated with the idea of sustainable development, presenting a challenge to be implemented by contemporary societies. Thus, according to Machado (2013, p. 76; our translation), it is understood that:

> the principle of sustainable development involves a combination of several elements or principles: the integration of environmental protection and economic development (integration principle); the imperative to preserve natural resources for the benefit of future generations (intergenerational equity); the goal of exploiting natural resources sustainably (sustainable use); and, finally, the equitable use of resources (intragenerational equity).

As evident from the previously mentioned concept, the principle of sustainability is inherently linked to the concept of intergenerationality, which arises when a specific legal asset is recognized as belonging not only to present generations but also to future generations.[5] The discourse on intergenerationality poses considerable complexity for both Law and democratic theories, given the interest in ensuring the decision-making power and use of resources for present generations. However, caution is warranted to prevent the misuse of this power, suppressing the deliberative sphere of future generations and causing inevitable democratic harm.

And what is the relationship connecting the concept of sustainable cities, sustainability, and the duty to review the Master Plan within the period defined by law? The response lies in the challenge of establishing fixed definitions for urban policy since sustainability parameters for decision-making regarding the entitlement to sustainable cities need to be tailored for each generation. This dynamic requires the periodic review of urban legislation, a unique characteristic of this legal field marked by undeniable legislative sophistication, yet susceptible to generating legal uncertainty.

While initially there was no apparent connection between sustainability and the environment, a notable shift occurred later, marking a significant link between Urban Law and Environmental Law, especially concerning the concept of sustainable urban planning. This approach takes into account both the current aspects

5 In the context of the City Statute (Law No. 10,257/2001), legal scholars commonly employ the term "sustainable cities". Conversely, urban planners more frequently use the phrase "sustainable planning" to avoid implying that a sustainable city is a finished or completed entity. Instead, they emphasize the concept of sustainable planning, projecting human and state intervention in the urban space based on programming that incorporates sustainability in its formulation. According to Gomes and Zambam (2018, p. 324), the international establishment of the concept of a sustainable city originated from the HABITAT Conferences (I – Canada/1976; II – Istanbul/1996; III – New York – Preparatory Committee/2001).

of urban spaces and intergenerational considerations as crucial elements in the implementation of urban policy.

> All rights associated with urban development and the formation of sustainable cities must consider not only the present generation but, more importantly, future generations. In terms of urban planning and the evolution of cities, it can be confidently asserted that the present is fleeting, and in each moment, there is a need to glimpse into the future. What may be effective for the present might not necessarily work for the future. Hence, it becomes imperative for the Public Power to anticipate the protection that future generations deserve. This foresight can only be achieved through effective planning (Carvalho Filho, 2013, p. 47-48, adapted).

Within the realm of Urban Law, the intricate relationship between development and sustainability is evident when urban guidelines emphasize the necessity to ensure sustainable cities. These are construed as spaces that facilitate access to the right to urban land, housing, environmental sanitation, urban infrastructure, transportation, public services, work, and leisure for both present and future generations.

Furthermore, a related and noteworthy concept is the notion of ecologically balanced development, which is a typical open and indeterminate legal concept, allowing interpreters to adapt the application of concrete reality to the norm or legal principles.

> The term 'ecologically balanced' represents a typical indeterminate legal concept intentionally crafted ambiguously to allow for maximum flexibility of the norm, serving as an instrument of constitutional openness. This intentional imprecision is functional, enabling adaptation to new technical, historical, and social contingencies. Rather than leading the interpreter to paralysis, this indeterminacy makes them an active agent in creating an ecologically balanced environment, requiring the identification of values that align with the constitutional precept in each situation (Rodrigues, 2009, p. 2,349, free translation).

The use of the expression 'ecologically balanced' exemplifies a departure from certainties since defining which practices can be considered ecologically balanced proves to be challenging. The fluidity arises from the acknowledgment of the passage of time, allowing for corrections to previously adopted analyses and the emergence of new analytical criteria stemming from scientific debate and technological development.

The idea of an ecologically balanced environment has played a pivotal role in shaping the principle of sustainable development. This principle can be identified as a natural extension of the objective to uphold a harmonious relationship between human beings, society, and nature, ensuring ecological balance for both current and future generations.

Within the scope of Urban Law, the impact of the principle of sustainability is not merely descriptive but rather assumes a principled function and serves as a foundational guideline in urban legislation, justifying its explicit reference in the City Statute and underscoring the necessity for periodic reviews of urban legislation.

The principle of sustainable development must be reconciled with the Right to the City, as the tension between development and the imperative to explore the city's potential presents specific challenges within the scope of Urban Planning Law, as the absence of development can have severe consequences for the economic activity of the municipality. The intergenerational nature of the sustainable city poses a challenging equation, navigating between present-day interests in city exploration and the difficulties of ensuring its sustainability for future cities.

Merely considering urban development in isolation is insufficient, as certain measures may only superficially appear to foster development but fail to benefit the community and may even lead to serious harm. On the other hand, the pursuit of well-being must be universal and collective, avoiding the allocation of exclusive comfort to small groups at the expense of overall city development. Carvalho Filho (2013) defines a sustainable city as one that adeptly observes this delicate balance.

Recognizing the right to sustainable cities is neither voluntary nor easily attainable, involving numerous complexities related to the decision-making process about present-day city use and the resources available to inhabitants in the future. Foladori's analysis (2001) aptly captures the controversies surrounding the concept of sustainability, which arise from the intricate dynamics between the various forms of environmental exploitation and the corresponding potentials for recovery and regeneration. The author also highlights changes in social and human conceptions regarding society's relations with nature, emphasizing how the recognition of the physical limits of natural assets influences the definition and extension of the concept of sustainability, particularly concerning the right to guarantee sustainable cities.

These characteristics underscore the duty for legislative review of the Master Plan within ten years, considering the potential emergence of numerous variables during this time that must be considered to guarantee the right to sustainable cities. If the issue proves complex and seemingly intractable, the need for democratic deliberation becomes paramount to legitimize the decision-making process on the Master Plan.

If the challenge is substantial and its implementation feasible, the outlined

guideline serves as an analytical reference for the content of the approved Master Plan. In this context it is imperative to refer to the United Nations Development Program (UNDP), which prepared the 2030 Agenda, in force since 2016, whose Sustainable Development Goal 11 (SDG 11) provides the following justifications for the need to guarantee sustainable cities and communities:

> More than half of us lives in cities. By 2050, two-thirds of all humanity—6.5 billion people—will be urban. Sustainable development cannot be achieved without significantly transforming the way we build and manage our urban spaces.
> The rapid growth of cities— a result of rising population and increasing migration—has led to a boom in mega-cities, especially in the developing world, and slums are becoming a more significant feature of urban life.(…) In 1990, there were 10 megacities with 10 million people or more; by 2014, the number of mega-cities rose to 28, and was expected to reach 33 by 2018.(…)
> Urban spaces often concentrate on extreme poverty, and national and local governments grapple with the challenge of accommodating the burgeoning population in these areas. **Enhancing the safety and sustainability of cities entails ensuring access to suitable and affordable housing, as well as enhancing the quality of degraded areas, particularly in favelas. This effort also encompasses investments in public transportation, the creation of green spaces, and the improvement of urban planning and management in a participatory and inclusive manner** (United Nations Development Programme, 2016, emphasis added).

SDG 11 served as the foundation for the document produced as a result of the United Nations Habitat III Conference in the city of Quito, Ecuador, in 2016. The final report, titled *New Urban Agenda*, focuses on the concept of sustainable cities, within which, the following articles can be highlighted:

> 9. The *New Urban Agenda* reaffirms our global commitment to sustainable urban development as a critical step for realizing sustainable development in an integrated and coordinated manner at the global, regional, national, subnational and local levels, with the participation of all relevant actors. The implementation of the New Urban Agenda contributes to the implementation and localization of the 2030 Agenda for Sustainable Development in an integrated manner, and to the achievement of the Sustainable Development Goals and targets, including Goal 11of making cities and human settlements inclusive, safe, resilient, and sustainable.
> 10. The New Urban Agenda acknowledges that culture and cultural diversity are sources of enrichment for humankind and provide an important contribution to the sustainable development of cities, human settlements and citizens, empowering them to play an active and unique role in development initiatives. The New Urban Agenda further recognizes that culture should be taken into account in the promotion and implementation of new sustainable consumption and production patterns that contribute to the responsible use of resources and address the adverse impact of climate change.

> 11. We share a vision of cities for all, referring to the equal use and enjoyment of cities and human settlements, seeking to promote inclusivity and ensure that all inhabitants, of present and future generation, without discrimination of any kind, are able to inhabit and produce just, safe, healthy, accessible, affordable, resilient and sustainable cities and human settlements to foster prosperity and quality of life for all. We note the efforts of some national and local governments to enshrine this vision, referred to as the 'right to the city', in their legislation, political declarations and charters (United Nations, 2017).

It is evident that, given the consensus expressed in these global documents, the concept of sustainable cities not only recognizes the challenges associated with ensuring urban infrastructure for a growing population but also emphasizes preserving this legal framework as an asset for future generations.

In this context, the urban policy guideline of the right to sustainable cities can be seen as a rationale for the legislative revision of the Master Plan, a revision aimed at achieving a delicate balance between development and the sustainability of urban resources to enable enjoyment and assurance for present and future generations. This process involves periodic democratic deliberation, even if it is for acknowledging its success and maintaining its content.

4 Principle of legislative revisionism: positive and negative aspects

As previously explained, since the enactment of the City Statute (Law No. 10,257/2001), urban legislation has consistently employed a method allowing for the periodic review of urban policy frameworks. In the scope of urban planning, as elucidated below, it is common in various related laws to stipulate reviews of the content of the respective legislation. While the primary focus of this work is on the City Statute (Law No. 10,257/2001), it is noteworthy to mention other legislations that follow a similar pattern, such as the National Basic Sanitation Policy (Law No. 11,445/2007, Article 15, § 4)[6], the National Solid Waste Policy (Law No. 12,305/2010, Article 15)[7], the National Urban Mobility Policy (Law

6 Section II
From the National Solid Waste Plan
Article 15. The Union, under the coordination of the Ministry of the Environment, will develop the National Solid Waste Plan, which remains valid indefinitely with a 20-year horizon. This plan will be subject to updates every 4 years, following a plan that includes at least:
§ 4 Basic sanitation plans will undergo periodic reviews, not exceeding 4 years, before the preparation of the Multi-Year Plan (Brasil, 2007).

7 Section II
From the National Solid Waste Plan
Article 15. Under the coordination of the Ministry of the Environment, the Union shall formulate the

no. 12,587/2012, Article 24, § 3, XI)[8], among others. As observed, contrary to the inclination to maintain the content of a law until its repeal by a subsequent norm, urban legislation establishes periodic review deadlines.

Given the specificity of this rule and aiming to prevent any negative effects on the enhancement of urban policy, it is pertinent to analyze the positive and negative aspects arising from said characteristic.

As a positive aspect, it is crucial to highlight the sophistication of such an urban institute, distinguishing these legislative moments from ordinary debates. In this context, the foundation of revisionary legislative processes aligns with the principles of democratic city management and the guarantee of the right to sustainable cities, serving as a normative contribution regarding the changes and ratifications in the Master Plan. Furthermore, if the review is a duty of state bodies, as provided by law, it constitutes a genuine diffuse right of civil society for the improvement of urban policy.

On the negative side, the potential for legal uncertainty stands out, as the periodic reformulation of the content of the Master Plan, Mobility Plan, and Sanitation Plan, among others, may create a sense of institutional instability and uncertainty, which could jeopardize the functions of law in contemporary societies.

Legal uncertainty has been repeatedly exploited to the detriment of the organization of urban spaces. This instability may lead to predatory actions on the potential of cities by groups not committed to their optimal planning. In this context, Maricato (2017) astutely emphasized that merely having a legislative apparatus is insufficient to enhance urban policy; its execution must unfold through continuous public debate and supervision.

In a broader context, to be explored in future research, the positive and negative aspects of revisionary legislative processes can be correlated with legislative techniques related to urban matters to enhance their strengths and mitigate associated risks. Within the scope of this article, the acknowledgment of this singularity and its characteristics serves as a proposal to contribute to advancing the discourse on the legal dogmatics of Urban Law.

National Solid Waste Plan, which remains valid indefinitely with a 20-year horizon and scheduled to be updated every 4 years, obligatorily including a minimum set of content (Brasil, 2010).

8 National Urban Mobility Policy – Law No. 12,587/2012.

Article 24. The Urban Mobility Plan serves as the instrument for implementing the National Urban Mobility Policy and must encompass the principles, objectives, and guidelines of this Law, including:

§ 3 The Urban Mobility Plan shall be made compatible with the Municipal Master Plan, whether existing or in preparation, within a maximum period of seven years, counting from the date of the entry into force of this Law (Wording derived from the Provisional Measure No. 818, of 2018).

XI – the systematic evaluation, review, and periodic updating of the Urban Mobility Plan within a period not exceeding 10 (ten) years (Brasil, 2012).

Final considerations

The article delved into the theme of urban legislation, highlighting a specificity marked by the imperative of periodic review. The proposed designation for this characteristic is the principle of legislative revisionism, conceptualized as the assurance of a periodic review of urban planning as established in urban legislation, grounded in the principles of democratic management and the guarantee of the right to sustainable cities.

As a result, the study leads to the conclusion that the justification for the principle of revisionism, rooted in the democratic management guideline, presents compelling arguments regarding the legitimization of the decision-making process, making way for the possibility for a broader range of groups to participate in the urban planning process.

Concerning the right to guarantee sustainable cities, the review of urban planning becomes crucial for striking a delicate balance between present access to urban land, housing, and environmental sanitation and the preservation of urban infrastructure for future generations.

More than merely a legal dogmatic principle, revisionism should be affirmed as a right of city residents, providing them the guarantee to participate in the periodic analysis of urban planning and preventing its inefficacy over time.

While the periodic review is a duty for state bodies, for civil society, it represents a diffuse right that contributes significant normative elements to these moments for reviewing and debating over urban legislation. It may even be subject to protection under the Public Civil Action Law (Law No. 7,347/1985). The acknowledgment of the principle of legislative revisionism carries several implications. For instance, the establishment of the revisional legislative process is not perceived as an arbitrary decision by state bodies; deliberations are instead conditioned to normative elements arising from the principles of democratic management and the guarantee of sustainable cities.

However, failing to recognize this contribution through a principled interpretation of the duty to periodically review urban legislation poses risks of legal uncertainty. Constant legislative revisions across various areas of legislation may lead to case-by-case decisions that hinder the development of a more sophisticated urban policy.

In highly diverse democratic societies, where the evolution of urban spaces is directly impacted by the passage of time, it becomes crucial to acknowledge these elements of urban legislation. By instituting the duty of periodic review, urban

legislation underscores the specific nature of these legislative processes, grounded in democratic management and the guarantee of sustainable cities. These elements are deemed relevant for enhancing urban policy with democratic legitimacy and sustainable planning.

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ABOUT THE AUTHOR

Samuel Santos
PhD in Law from Universidade Federal de Santa Catarina (UFSC), Florianópolis/SC, Brazil. Master's in Theory and Philosophy of Law from UFSC. Professor at undergraduate and postgraduate courses at Faculdade CESUSC, Florianópolis/SC, Brazil. Coordinator of the Democracy and Separation of Powers Research Group.

Author's participation
The author participated in all steps in the preparation of this article.

How to mention this article (ABNT):
SANTOS, S. The revisional legislative process in urban policy and its foundations: democracy and sustainability. *Veredas do Direito*, Belo Horizonte, v. 21, e212459, 2024. Available from: http://www.domhelder.edu.br/revista/index.php/veredas/article/view/2459. Access on: Month. day, year.