



THE CRISIS IN THE WELFARE STATE AND THE REPRODUCTION OF THE RIGHT TO HOUSING IN BRAZILIAN CITIES IN THE CAPITALIST MODE OF PRODUCTION

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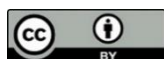
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Trabalho enviado em 16 de agosto de 2023 e aceito em 21 de maio de 2023



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Rev. Dir. Cid., Rio de Janeiro, Vol. 16, N.02., 2024, p. 318-342.

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DOI: [10.12957/rdc.2024.71241](https://doi.org/10.12957/rdc.2024.71241) | ISSN 2317-7721

RESUMO

O **objeto** do presente trabalho é discutir moradia digna a partir de uma análise multidimensional do conceito de democracia de Jürgen Habermas. Os **objetivos específicos** incluem compreender o conceito de moradia digna multidimensional, e sua correlação com a teoria de democracia social vinculada à uma perspectiva de superação do mercado de produção de imóveis do sistema capitalista. O **marco teórico** utilizado é a teoria de Habermas sobre democracia e Estado de bem-estar social. Para atingir esses objetivos, propõe-se, por meio do método dedutivo e a partir de uma revisão bibliográfica, analisar a questão do direito fundamental à moradia no modo de produção capitalista, sob a égide do paradigma do Estado de Bem-estar Social. Os **resultados esperados** apontam que o Direito neste projeto de Estado de bem-estar social é utópico e que a falta de intervenção adequada do Estado nesse projeto econômico tem deixado o mercado livre para apresentar novas opções de moradias que não atendem a padrões mínimos de habitabilidade.

Palavras-chave: Estado. Social. Moradia. Democracia-paradigmática. Pobreza multidimensional.

ABSTRACT

The object of this work is to discuss decent housing based on a multidimensional analysis of Jürgen Habermas' concept of democracy. The specific objectives include understanding the multidimensional concept of decent housing and its correlation with the theory of social democracy linked to a perspective of overcoming the real estate production market of the capitalist system. The theoretical framework used is Habermas' theory on democracy and the welfare state. To achieve these objectives, it is proposed, through the deductive method and based on a bibliographic review, to analyze the issue of the fundamental right to housing in the capitalist mode of production under the aegis of the welfare state paradigm. The expected results indicate that the Law in this welfare state project is utopian and that the lack of adequate state intervention in this economic project has left the market free to present new housing options that do not meet minimum habitability standards.

Keywords: State. Social. Home. Paradigmatic democracy. Multidimensional poverty.

1. INTRODUCTION

Brazil is experiencing a historical state of social vulnerabilities regarding the effectiveness of the right to decent housing; is from a perspective of the analysis of social determinants (CHAI, 2021); be in consideration of the sequential republican constitutional orders from the first of 1891 to that of 1969, which formalizes material constitutionalism of exception; or in the post-direct-already promises (1985-87), with the sacralization of the Citizen Constitution, notably in what pertains to a social policy of decent housing.

It cannot be forgotten that the Brazilian State, apart from its momentary concern with labor regulations, C.F. 1934, art. 121, inspiring an idea of the welfare state, C.F. 1934, art. 115, did not have



socio-institutional maturity with a general commitment to a dignified life, effectively carried out through policies directed to the entire population, in the years of the old and the new republic, for the right to housing as a practice and a social protection policy.

The statistics denounce this permanent and historically unconstitutional situation in Brazilian society, in which the constitutive elements of social justice and dignified life are fragmented and disconnected in time and space.

In the years 2019-2022, the homeless population in Brazil increased by 38%, reaching 281,472 people (IPEA, 2022), whose segment had an ascendancy of 211% over the course of the last decade (2012-2022). This section does not include populations in risk areas, demarcated by the risk of access to the water supply network and or access to the sewage network or garbage collection, nor forced displaced by environmental disasters, nor populations in a situation of other vulnerabilities that directly affect the perception of multidimensional decent housing in the conceptual perspective espoused by the Committee on Economic Rights, Social, and Cultural (E/1992/23) General Comment No. 04 (1991), with reference to Article 11 of the International Covenant on Economic, Social and Cultural Rights, which recognizes multidimensional dignified housing as an adequate standard of living for oneself and one's family, including food, clothing and the continuous improvement of one's living conditions. (UN-Habitat, 2002). In the end, democracy is not in itself just the formal promises by legal norms as expressions of political choices.

Given this social framework, the article proposes to analyze, as an object of study, the reformulation of social democracy based on the concepts of Habermas applied to the fundamental right to housing as a multidimensional right, in Brazilian cities, in the capitalist mode of production, under the aegis of the paradigm of the Social Welfare State. And in order to achieve the specific objectives of understanding the concept of multidimensional decent housing and its correlation with the theory of social democracy linked to a perspective of overcoming the real estate production market of the capitalist system, a deductive methodological approach is used, correlating the concepts of multidimensional decent housing, in the conventional cut of the International Covenant on Economic Rights, Social and Cultural, and Habermasian democracy, with the application of bibliographic and documentary review technique. In this approximation, it should be noted that, in the work of Jürgen Habermas, the idea of democracy is practically ubiquitous, and in the field of current political and legal philosophy, his analyses and research on the welfare state remain propositional, and his critique of the welfare state, developed from the idea of reflective continuity of the Social Democratic project of the welfare state, its concept, and its crisis are decisive for a reflection on the investiture of a new or another model of the welfare state,

reworking the semantic and material understanding of the fundamental right to multidimensional decent housing and the capitalist production market.

Talking about housing, in the context of social welfare, is one of the factors that most cause conflicts among humans due to its lack or the conditions imposed by the economic market for its acquisition. Thus, the importance of analyzing the theme is highlighted to understand the initiatives for the adequate realization of this right, guaranteeing housing to all citizens. "Because although living is necessary, a large part of individuals cannot get reasonable housing, needing to submit to terrible living conditions" (SOUZA, 2016, p. 68).

Even though it is a fundamental right to housing, only those who can afford to buy it get housing, while "housing promotion – both public and private – has served the interests of the private market, inserted in a context of inequality and injustice, in which a good essential to human life" (MARTINS and MASTRODI, 2015, p. 98). For this reflection, it is not enough to keep in mind poverty only in its monetary cut, such as insufficient income, but multidimensional, that is, in the combination of monetary and non-monetary indicators, such as access to health, sanitation, technology, and work, etc.

Habermas is the theoretical basis for the discussion proposed here on the reflection of the project of the welfare state, addressing the mode of reproduction of housing in the capitalist system and questioning if: is a theory of social democracy linked to a perspective of overcoming the real estate production market of the capitalist system?

The violation and public disregard for the realization of the fundamental right to housing, as opposed to the growing real estate economy, which remains positive and supported by the national legislation, presents a picture that demonstrates that the State has been facing difficulties in tracing paths and executing actions that minimize the social problems arising from the lack of housing, and continue to foster the sector of housing production to meet the demands of capitalist market production ensuring that the housing has minimum standards of habitability while aggravating the phenomenon of gentrification.

Unsurprisingly, Habermas criticizes social democracy for advocating social conduct based on the welfare state, which has been replaced by a party-based democracy led by a bureaucratic elite. This change would hinder the implementation of public policies to ensure access to housing for the poorest. In addition, Habermas criticizes neoliberalism for refusing the political-economic link of the normativity of the social, which would frame the political and the economic from generalizable interests to the detriment of the guarantees of social welfare. (HABERMAS, 1991).

The momentary epistemological curiosity about the condition of our existence, especially of the less economically affluent class of society, was what inspired us to understand the welfare state and the



democracy that we live, in addition to the lack of housing, housing in degrading situations launched in the real estate market, as is the case of the launch of the 10m² apartments, increasingly common in large metropolises.

2. CRISIS OF THE WELFARE STATE PARADIGM

For Soares (2004, p. 208), "the expansion of citizenship in the modern State demonstrates the contrast between its achievements and its limitations." There is an example in the Welfare State; the State has become co-responsible for the economic situation; this type of State must enable and guarantee the maintenance, stability, and growth of the economy.

The Welfare State is also known by its English name, Welfare State. "In broad strokes, for Marxists and pluralists of the functionalist type, welfare appears historically as a requirement of industrialization or the accumulation of capital, for some, or of modeling and urbanization for others" (FIORI, 1997, p. 139). Characterized by the establishment of a social security system that would protect individuals already unable to work from the lack of resources for their survival.

Fabriz and Teixeira (2017, p. 60) state to conceptualize that:

The term "Welfare State" already refers us to reality in an optimal degree, as well as its pretensions to manage a State capable of providing that the human being independent of the "natural lottery" (having inheritance or even having been able to build patrimony by its merits) is possessed of minimum income, of access to the educational system, culture, leisure, labor rights, the health and social security system, and other "goodies," all guaranteed by an interventionist State.

The State now must regulate and maintain in balance the economic system and also guarantee the provision of essential public services (security, health, education, etc.).

Then the State assumed "the functions of conforming agent of social reality in the face of the advent of a mass society marked by social conflicts" (SOARES, 2004, p. 211). And it began to make compatibility within the same system, "capitalism, as a form of production, and the achievement of general social welfare" (SOARES, 2004, p. 212). However, the post-World War II crisis of capital accumulation, the result of the internationalization of markets and the transnationalization of production, showed that the social regulation established by the welfare state would be ineffective. For "his main point was in the strengthening of citizens in political democracy. Social inequality was neglected with a strong appeal to market mechanisms" (FABRIZ AND TEIXEIRA, 2017, p. 63).

From the outset, Fabriz and Teixeira point out that Habermas' thinking indicates that the crisis of the Welfare State is based on several directions:



The end of the utopias that had as a paradigm the society of work; the inability of the interventionist state apparatus to act as a way to domesticate the capitalist economic system (see the rise of neoconservatism); the existence of a defensive bloc against disadvantaged and marginalized groups; a society structured in a bureaucratized manner (standardization and surveillance – in the terms aligned by Michel Foucault); critics of development (youth, women, unemployed, disabled, believers and atheists) who present an ambivalent attitude towards the welfare state (FABRIZ and TEIXEIRA, 2017, p. 62).

Driven by the Fordist regime of accumulation and driven by Keynesian policies, guided by ideologies of construction of social citizenship and economic growth. The class conflict, inscribed in the structure of the system because of the maintenance of the processes of private accumulation of socially produced wealth, is mediatized politically from the social policy conducted by the State (DANNER, 2014).

Danner (2014, p. 575) points out that:

In the twentieth century, liberal capitalism, characterized by laissez-faire theory, would have been imploded either by the consolidation of a monopolistic or even oligopolistic economy, in which there is an increasing concentration of enterprises and an organization of goods, capital, and labor markets at the national and transnational level, or by the growing interventionism of the State in the sphere of production, in the sense of managing it (and even in order to avoid the harmful effects of a monopolistic economy).

Thus, "the consolidation intended by the Welfare State was contradictory, since the greater the coercion, the lower the freedom, the greater the freedom, the lower the freedom, the lower the effectiveness in planning and the decrease in social welfare" (SOARES, 2004, p. 212).

Given the significant role of the welfare state, which should stabilize the economic system and ensure the effectiveness of social integration processes (DANNER, 2014), this state model did not achieve the realization of the values it tried to enforce. In other words:

[...] The welfare state cannot guarantee the viability of patterns of capital accumulation without correlatedly performing, to the social classes dependent on the labor market and affected by it, broad processes of material integration, which are characterized, preventively, by the satisfaction of basic living conditions (DANNER, 2014, 578).

What Habermas, in the face of the crisis of the welfare state, found, among other things, that the welfare state was contradictory: on the one hand, the pure and simple rupture of the class commitment, which he embellished, was unthinkable, either because of the problems generated by the capitalist labor market, or because of the normative content consolidated in mass democracies; on the other hand, its authoritarian continuity, on the part of the social democrats, would intensify the democratic deficit that was inherent to it (DANNER, 2014). For, as Lourenço and Fernandes (2019, p. 399) highlight:

Without this cohesion and complementarity between public and private autonomy, the Democratic State of Law fails because if private autonomy prevails, the Social State is configured with insufficient rationality because it is too vertical, which perceives the citizen as the recipient of goods, disregarding the role of citizens as authors and formators of Law.

In the view of Soares (2004), the crisis of the welfare state raises doubts about its efficiency and reduces the Social State to a mere Welfare State. This, therefore, can be considered as one of the factors that "animated the neoliberal projects of reform of the States that end up hitting the Welfare States in full, slowing down their expansion or disabling many of their programs" (FIORI, 1997, p. 142). But, it should be emphasized in the view of Souza and Aquino apud Habermas (2021, p. 112) the autonomy of the right is morally based on the procedure, where the legal system put in place will only have autonomy during the time in which the legislative and judicial powers are impartial in their judgments and wills, enabling ethical and procedural rationality, with equal entry into both Law and politics and the Law cannot be autonomous without democracy being realized.

However, it is worth reflecting on the Habermasian proposition that the Social State should be continued on a reflective level, which I will deal with later. In the words of Fabríz and Teixeira (2017), the crisis is so acute that it does not find a clear answer so far.

2.1. WELFARE EMBODIES THE IDEOLOGY OF THE WELFARE STATE

The liberal paradigm of State and Law, currently signaled by neoliberal strands, will disregard social inequality, say Fabríz and Teixeira (2017). Habermas (1987) envisions that large companies and trade unions can take away from Parliament the ability to manage the interests of the whole society so that excluded groups. It is at this moment "the State became a Social State, and the administration ceased to be a simple guardian of order to begin to ensure services that belonged until then to the private sphere" (PEREIRA, 2012, p. 21).

Existentialism incorporates alteration of the cognitive and motivating structures of the personality, its perception, and its desires, and must adapt to individual situations, placing the social State, technically, before the limits of its capacity and, morally, before the justification of its interventionism (SOARES, 2014).

The neoliberals, in the construction of the minimum State, refute full and collective citizenship for all social segments in the social, economic, and cultural spheres and renege on achievements of the social State incorporated by the democratic State of Law as recognition of the equality of the right to education, which would compromise the freedom of teaching and the free choice of school; the right to medical care, which would prevent the choice of doctor by the patient and the free exercise of medicine; the



right to social security, rest, vacations or collective bargaining of the employment contract, which violate the principle of free autonomy of the parties in labor contracting (SOARES, 2014, p. 215).

The defenders of the minimal State criticize, especially the welfare policies of prohibitive costs and the bureaucratization of social and economic life, which results in more pernicious effects than those caused by the market anomalies they intend to correct ineffectiveness of benefits, lack of productivity of public Serbs, inflation, and public deficit.

Habermas realizes that the presupposition of a consensual truth could authorize formally consented lies or that the feasible absence of consensus could be interpreted as the non-existence of the truth (CRUZ, 2008, p. 133).

A question raised by Fabríz and Teixeira (2017) grounds the following topic, in the authors' view, what would be the way out for the Social State in the face of such predatory sizes and such a need for continuity?

3. DEMOCRACY AS SELF-DETERMINATION OF THE WELFARE STATE IN HABERMAS

The answer to the question of what the way would be out for the Social State in the face of such predators and such a need for continuity, in the view of Pereira (2012), is democracy because it works with the self-determination of humanity and only when this is effective this self-determination is true.

According to Fabríz and Teixeira (2017, p. 65), the "Social State has not always flourished in democratic regimes, although it has always erupted in a capitalist environment." Fabric and Teixeira point out that, for Habermas, such an attempt could be revolutionary, but it would do no good if there were no real sharing of power.

In the context of Modern Law, Habermas (1998) believes that it enforces a rule of Law that maintains a radical democracy. In other words, ... "There is no rule of Law without democracy (HABERMAS, 2002, p. 243). The idea of radical democracy brings us back to the demand for radically inclusive democratic procedures. His elementary concern with the demands of a radical democracy drives the work in confronting the pressing political questions, namely, a more direct democracy.

According to Danner (2014, p. 571), Habermas is critical of social democracy in the sense that the resounding material success consolidated from the conciliation between capital and labor in post-war societies occurred at the expense of the weakening of the process of political democratization of power, which would have generated highly developed societies in material terms, but structurally weakened in terms of political democratization of power, generally speaking, and of administrative-party power in particular.



Now, if the welfare state is the political content of mass democracy, like democracy, the guiding political core of social evolution in terms of contemporary societies, then it is clear that, in a situation in which it weakens the political arena constituted by civil society and overlaps, it becomes autonomous in the face of the political actors constituted by social movements and citizen initiatives, this same welfare state, assumed by hegemonic power groups, will effectively constitute an instrument of class domination (DANNER, 2014, p. 580).

Soares (2004, p. 211) states that the State must perform socially integrating functions, seeking to reduce social inequalities and provide certain material conditions for the emancipation of the individual. To this end, Habermas presupposes "the peaceful coexistence of democracy and capitalism can be ensured through state intervention."

Habermas articulates a solution to the crisis facing the welfare state based on a new sharing of power, balancing the three spheres of influence of society in such a way that the social integration power of solidarity must be able to resist the forces of the other two resources, money, and administrative power.

A social democracy, as Habermas wants, induces a radical reformist type of self-criticism of a capitalist society which, in the forms of a mass democracy articulated in terms of the rule of Law and the welfare state, has developed at the same time, both its weaknesses and its strengths.

Among us, only the pursuit of the project signified by the welfare state, but converted into a reflexive one, can lead to something like social democracy, to a definitive neutralization of the undesirable consequences of the capitalist labor market, to the elimination of real unemployment. Since (...) "a theory of rights, if understood correctly, never closes its eyes to cultural differences" (HABERMAS, 2002, p. 234).

And there are three groups that dispute the understanding and solutions in relation to the crisis of the welfare state and the understanding of a Democracy based on the conceptions of Modern Law: the social democrats, the neoconservatives or neoliberals, and the critics of growth.

With the crisis of the welfare state, such parties, social democrats, would be on the defensive precisely because they were the political proponents of it. The Social Democrats defend the process of economic modernization conducted by the Social State. However, they erase from the project of the Social State precisely those components arising from the utopian idea of a society of work, renouncing the objective of abolishing heteronomous work and, with this, preventing *the status* of free and equal workers, by extending to the sphere of production, from leading to the development and consolidation of autonomous forms of life.

At present, for Habermas, the social democrats would be the true conservatives, as far as they try to find a balance between the development of the welfare state and modernization based on the market

economy, between democratic orientations in terms of use values and the dynamics of the capitalist economy in terms of exchange values.

Thus, if, on the one hand, the merit of the Social Democrats lies in their attempt to save certain achievements of the welfare state, their failure, on the other hand, consists of failure to recognize the danger of the increasing bureaucratization of the vital world caused by the technocratic power of the State.

While the neoconservatives are the greatest opponents of Habermas's thoughts – and his defense of the welfare state – stand exactly as a counterpoint to neoliberalism. For in the model of the welfare state that, unlike the Liberal State, is more sensitive to social demands, intervening, therefore, in economic, cultural, and legal issues, seeking in this aspect to superimpose material equality on formal equality and delimiting and/or replacing the autonomy of the will of the parties in favor of the hyperefficient (FABRIZ and TEIXEIRA, 2017, p. 63).

Neoliberalism makes several criticisms of the basic pillars of the left, such as a) the centrality of politics as a fundamental element for the conduct of social evolution; b) direct democracy (rapprochement between the State, parties, social movements, and citizens' initiatives); c) distributive justice. (What will be the criterion of this justice) and the Critics of growth called, by Habermas, *dissidents of industrial society*, who assume an ambivalent position towards the welfare state. In the Federal Republic of Germany, new social movements – ecologists, racial and cultural minorities, religious groups, etc. – have come together, forming an "anti-productivist" alliance. What characterizes them is the opposition to the productivist vision of progress, that is, the radical rejection of economic modernization. Social democrats and neoliberals, by contrast, share the assertion of economic modernization. Critics of growth, for their part, start from the fact that the world of life is threatened by both digital monetization and bureaucratization.

For Habermas, the merit of the critics of growth consists in the fact that they inherit the radical contents of democracy, present in the project of the social State, contents that would have been abandoned by the social democrats. This is because "the liberal State actually operates on the basis of a minority democracy founded on a social hierarchy" (PEREIRA, 2012, p. 20).

However, their limit lies in the fact that they would not go beyond the *fundamentalism of the great refusal* in terms of outright opposition to economic-social modernization.

With this, they fall behind an idea of the welfare state: in particular, it is about understanding – which critics of growth, according to Habermas, do not do – that the welfare state, as the political content of mass democracy, was structured to contain the growth of the complexity of the capitalist economy, *compensating* civil society for *deficits* that this cannot simply be abandoned. Thus, in the view of Pereira

(2012), either the Liberal State evolves into a Social and truly democratic State or regresses to a form of authoritarian regime.

Need for the "resumption of the project of the welfare state in a reflexive way, through the approximation of social movements and citizen initiatives. (DANNER, 2014, p. 591). According to Oliveira (2004), the written Law must guarantee equitably the autonomy of all subjects of Law.

The "old" Habermas, in the text *The Crisis of the Welfare State and the Exhaustion of Utopian Energies* (C.E.) of 1984, claims that the political-democratic forces and the ideals of individual emancipation can, in fact, be realized in the context of the welfare state characterized, then, by the new obscurity of an era in which the utopia of a society of work no longer feeds it.

Thus, Habermas articulates a solution to the crisis facing the welfare state based on a new sharing of power, balancing the three spheres of influence of society, such that the social integration power of solidarity must be able to resist the forces of the other two resources, money, and administrative power. Habermas' thesis places the State as a guarantor of services of social interest.

For the success of this mission, the public power should promote the principle of "publicity" as a guiding thread of the external and internal relations of the groups and associations that occupy space in the altered public sphere. "In fact, it is in the public sphere that we can safeguard and retain what is good about the Social State" (FABRIZ and TEIXEIRA, 2017, p. 77). For Fabriz and Teixeira, as problematic as the paradigm of the Social State is, Habermas was aware that it can be advocated in societies that are still so exclusionary.

For Habermas, there is an acute dialectic between politicization and depoliticization that permeates this class commitment assumed by the welfare state in its relationship with mass democracy (DANNER, 2014). "For the German thinker, the democratic procedure is a sacred space for participatory citizens to articulate criteria for equal or differentiated treatment, always with public controversy" (FABRIZ and TEIXEIRA, 2017, p. 77). And for the success of this mission, the public power should promote the principle of "publicity" as a guiding thread of the external and internal relations of the groups and associations that occupy the space in the altered public sphere.

It should highlight among the main commitments of the State, currently as Brazil, are the social rights provided for in the body of article 6 of the Constitution of the Republic, and especially we will deal with the fundamental right to housing in the next topic.

4. INTRODUCTORY NOTIONS FUNDAMENTAL SOCIAL RIGHT TO HOUSING AND THE CAPITALIST PRODUCTION MARKET



Housing, according to Domingues (2013, p. 199), "has been used to designate a set of factors that guarantee the permanent stay of someone in a certain place that presents the minimum conditions for human life." While for Souza (2016, p. 68), "Housing is a basic need for humanity, involving in its context a series of elements that enable individuals to develop their capacities and insert themselves into society." In other words, housing consists of the exclusive possession and, with a reasonable duration, of a space where one has protection against the weather and, with the protection of intimacy, the conditions for the practice of the elementary acts of life: feeding, rest, hygiene, reproduction, communion (NOLASCO, 2008).

The role of housing in the construction of human dignity is notorious, a place where man will enjoy accommodation equivalent to what he needs to live. The current conditions of housing in Brazil remain precarious, and to get a place to live, sometimes the population uses invasions, which, when carried out by groups of organized people, hinder the performance of the public power (FIGUEIREDO JUNIOR, 2020); in this sense, it is important to highlight "how the collective power of bodies in the public space remains the most effective instrument of opposition when access to all other means is blocked" (HARVEY, 2012, p.60).

In any case, housing is recognized as a multidimensional basic right and is one of the social factors that most cause conflicts among humans, which highlights the need for the fundamental social right to housing to be mentioned in various international treaties and instruments. The U.N. Charter of 1945 inaugurated a period of internationalization of human rights with the creation of the United Nations (U.N.), "aimed at protecting the rights of man," as Valle (2018, p. 09) points out. Therefore, the process of internationalization of human rights is considered a movement considered recent in historical terms since it began after the Second World War (FIGUEIREDO JUNIOR and CHAI, 2021). It is correct to State, in this context, that in the twentieth century, there was an outbreak of economic theories focused on the issue of the public good and efficient management.

The Universal Declaration of Human Rights, in addition to delimiting its content, divided human rights into two categories: civil and political rights and social and cultural economic rights. And that the right to housing makes up the second category and appears in Art. 25, § 1, which places housing as a necessary attribute to obtain a standard of living worthy to man, capable of ensuring his health and well-being.¹

¹ United Nations (U.N.). Universal Declaration of Human Rights. Art. 25.

The human right to housing is strengthened in the two international covenants: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights.²

Alongside the formative elements of the global system for the protection of human rights, composed of the Universal Declaration of Human Rights, the ICCPR, and the ICESCR (formators of the International Charter of Human Rights), there is also a specialized system for the protection of human rights, formed by some specific conventions. The Conventions against Racial and Women's Discrimination and the Convention for the Protection of the Rights of the Child (VALLE, 2018, p. 118) are important for the development of the right to adequate housing.

All these legal apparatus is called by Valle (2018) the process of "multiplication of rights," where in addition to expanding the list of protected rights, the list of holders of these rights was also specialized. The role of the government meant not only fiscal and monetary policies but also public investments "in sectors such as transport, public facilities, etc. – vital for the growth of mass production and consumption and which also guaranteed relatively full employment" (HARVEY, 1998, p. 129)

In 1999, the UN-Habitat Program pointed out that Alfonsin et al. (2002) launched the important Global Campaign for Security of Tenure. However, it is important to highlight that land regularization policies and programs cannot be formulated in isolation, needing to be combined with other public policies, with a view to breaking the cycle of exclusion that generates informality.

Among the main lessons of international experiences, it should be emphasized that understanding the dynamic nature of the social, economic, political, and legal processes that produce informality is the basis for the formulation, implementation, and evaluation of regularization programs (ALFONSIN et al., 2002, p. 20).

The right to housing, which has already been mentioned in several legislations related to human rights, deserves special attention by the U.N. due to a sizable percentage of the population in extreme poverty without access to the formal housing market (VALLE, 2018).

Housing, in the Brazilian constitutional scope, is an individual right, and the social function of the city is a duty of the State to this citizen. The Right to Housing is a Social Right in Brazil, which from the Constitutional Amendment No. 26/2000, became part of the list of social rights, along with the right to education, health, work, leisure, security, social security, protection of maternity and childhood, and assistance to the helpless (LOPES, 2014).

² The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights were approved in 1966, but their entry into force only began in 1976, when the minimum number of ratifications was reached (PIOVESAN, 2000, p. 161).

In the current Brazilian situation, housing is still a privilege of a minority, although, in the internal sphere, the right to housing is provided for in several legal texts. And not to enjoy a basic right for all, however unattainable by some, is to imply that an affront to equality mediated by the Constitution is born.

In the view of Lopes (2014), one of the characteristics of the urbanization process in Brazil is social segregation in the urban space. Since many people still build their homes in sensitive environmental areas, such as hills and hillsides, that is, in marginal areas of the city. Still, others are scattered around the city under marquees, viaducts, squares, and sidewalks of various cities.

In addition to conflicts, Wolkmer (2003) states that Law is always the product of organized life as a manifestation of social relations arising from human needs. But is there an organized life when the individual cannot provide one of the fundamental needs of the citizen, housing? If the Law exists as a set of existential and evolutionary conditions of society, and the right to property, a dynamic factor in social relations, an inhibitor of the will of the individual, is a regulatory institute of human conflicts. How do we realize the right to decent housing for thousands of citizens in a situation of unworthy survival throughout Brazil, living on the ideology of the M.P.C., which has the accumulation of merchandise (housing) as one of its aspects?

It is safe to say, brings Pires (2007), that in the course of time, life in the cities intensified, and a conglomerate of industries, trades, and illegal neighborhoods (favelas, irregular and illegal allotments) emerged.

Currently, cities have grown and, in most cases, have become gigantic; technological advances have provided a series of economic activities, and consequently, there is a large concentration of people who live in them. Allied with that reality, we have the fact that in underdeveloped countries, the difficulties of living in the countryside lead to rural exodus, bringing more people to the city (PIRES, 2007, p. 93).

And in the context of the right to housing, Pires states (2007, p. 43) that "the industrial revolution significantly altered the way of life of society, to the extent that the fields were abandoned and was transforming the urban centers and large crowds of people, in precarious housing and squeezed into small spaces". This leaves no doubt that there is a large population concentration in the cities. And from this process of urbanization, several social problems result, such as the scarcity of work, decent housing, basic sanitation, and others, to serve the entire population.

If urbanization, as described by Pires (2007), led to a series of situations altering life in the city, this new reality led to concern about the ordering of urban space by the State. And with this, it is possible to reflect that capitalist control of production intervenes in a specific way in the right to housing and housing policies. As well, this society has not yet been, despite all existing legal and technological



apparatus, capable of promoting, equally to all citizens, the conditions of access to the right to decent housing.

Inserted within the M.P.C., access to housing is conditioned to a piece of land, and it is necessary to pay for it "through the sale or rent, by the fact that, in today's society, the use is the product of the forms of appropriation (which has in private property its legal instance (CARLOS, 1994, apud. BAZZOLI, 2019). It is that "behind this evident relationship between private property and the obtaining of real estate greed for the production of the house as a commodity, there is also an ideological face" (CARVALHO, 2016, p. 38). And the commodity housing, which is already an expensive commodity, has become one of the great keys of modern capitalism regarding the accumulation of capital. Making is important to note how housing reacts to social relations made quantitative (to the detriment of qualitative, prior to M.P.C.) (BAZZOLI, 2019).

The commodity is immersed in the day-to-day of individuals in the M.P.C. so that exchange, buying, and selling are everyday practices, completely natural to common sense. And it should also be noted that where the capitalist mode of production prevails, the commodity occupies a main place, applying the idea that "corporations have more power to control space, making individual places much more vulnerable to their whims" (HARVEY, 2013, p. 92)

And housing, within the context of the M.P.C., is a commodity that is bought and sold in the real estate market. In the condition of commodity, it is appropriate to analyze housing in its economic and socio-historical aspects since "historically, the distribution and location of housing signal unequal conditions of space production and reflect class conflict" (SOUZA, 2016, p. 78). These conflicts are also defended by Barbosa and Lima (2017) when they affirm that the production of space, especially the production of urban space, is historically presented as a strategy of accumulation, circulation, and reproduction of capital. And in this context of accumulation and reproduction of capital, the talk of housing to a certain population expresses the ways in which a given society relates, acquiring specificities by adopting the capitalist mode of production (BAZZOLI, 2019).

In the words of Domingues (2013, p. 203), "Living is a human action that involves the power of someone over a certain space that, in the system of individualist capitalism, is possessed as exclusivity." Therefore, housing is a good that can be appropriated and negotiated, which makes it a legal asset of economic value. "That is why in capitalism, private ownership of the means of production and land is naturalized in its legal form through a social contract that determines who owns the property" (SOUZA, 2016, p. 74). The certificate of ownership of land is potentially a form of capital, a legal title that entitles its holder to appropriate a part of social wealth. In accordance with Marx (1988b), capitalist production is

not only the production and reproduction of commodities and surplus value but also the production and reproduction of social relations.

Therefore, it should be said that access to housing is part of an urban economic policy that organizes the space of the city, the provision of public services, and regulates the exercise of individual and collective rights over the use of land for housing (DOMINGUES, 2013). Thus, the housing analyzed in this context of the M.P.C. is seen as a good on which falls some characteristics that regulate its price by market laws.

Thus, among the characteristics that allow regulating the price of housing are the cost of production of housing (material, labor, and size of the building) and the location. In other words, highlights Domingues (2013, p. 223):

That it is possible to regulate the value of housing also through urban legislation that conditions the ordeal of allotments to the proof of demand for housing and the budget forecast of the municipality for the implementation and maintenance of urban public services.

In this way, the real estate market is linked to the urban conditions of the city, making the entrepreneur of the housing area, in Domingues' view, an interested party in the efficiency of the municipal administration.

Souza (2016) points out that among the factors that influence the price of housing, one of them is the amount of capital needed for its production and marketing. The construction of a property by an entrepreneur is aimed at profit. In this context, To Vargas (2014, p. 38), "the relation of consumption of the city as a product, both from the desire to own real estate according to specific individual needs and from speculative ambitions, with the expectation of obtaining profit, configure the land market."

Another form of market regulation, described by Domingues, is the obligation to use the property, whether it is built or not built, for residential purposes but left empty by the owner, who prefers not to risk in the rental market. It is that "due to its high added value, housing has low liquidity, that is, it changes hands infrequently, which influences its prices" (SOUZA, 2016, p. 72). However, it is important to highlight here that housing, according to the City Statute, must fulfill a social function within an urban space, that is, be linked to the network of services, commerce, and infrastructure of the city (BARBOSA and LIMA, 2017). And importantly, it is based on the City Statute that the City Hall will determine "whether the project of the subdivision elaborated is adequate or not since the urban planning is in its interest and is standardized in the municipal master plan." (NUNES and FIGUEIREDO JÚNIOR, 2018)

Thus, to think about the issue of housing, it is fundamental to also think about the capitalist relations of the development of cities. It should be said that the nature of the production and commercialization of housing is sensitive to changes in the economy and politics (SOUZA, 2016).



Next, to understand the value of housing under the M.P.C., it is necessary to talk about the location, which covers the investments fixed in certain parcels of land. According to Souza (2016, p. 76), "Among the attributes of the location are the infrastructures, which cover all the equipment of collective use that are available for use, such as water networks, transport routes, schools, etc." Most are long-term apparatuses of the organization and public infrastructure that require large investments, which are usually made and managed by the public administration. Vargas (2014, p. 37) "applies the concept of the commodity to the context of the real estate market, describing that the value of urban land use corresponds to its potential use (predicted construction indices, environmental amenities, accessibility to urban services, etc.)." And, for Souza (2016, p. 77):

The differentiation between the locations results from the process of production of the space, relating to technological and organizational transformations, changes in the world of work and in the market, and the expansion of requirements with safety and quality of life.

"The private appropriation of a fraction of the land and the consequent access to a location represents the right to the enjoyment of a social situation" (SOUZA, 2016, p. 77). And this important factor of capitalization of housing, usually, says Souza (2016), follows the wills of the ruling class that has in urbanization the possibility of expanded reproduction, which is why it is common to find in the corners of cities areas densely occupied and lacking infrastructure and places benefited with few residents. The presence of transport routes, electricity, water, and sewage networks, leisure areas, and proximity to equipment and services make up the predicates of housing, in the view of Souza (2016), which can value the good. In other words, in the real estate market, housing has a complex use value; that is, "some areas stand out for physical elements and for the existence of a better location in relation to the centers of consumption, jobs, information, and decisions" (BOTELHO, 2007, p. 76).

And it should be noted that the poorest workers, when they can access the housing market, need to face the voracity of the real estate sector and landowners. The portion of the working class is absent of choices; it is up to depend on public policies and also the target of the monopolistic positions of those involved in the housing market (SOUZA, 2016, p. 78). Because they do not have the material conditions to bear the costs to acquire their housing or pay rent, many people have found in the irregular occupations of public and private land the alternative to access to their own home, although in precarious situations, in areas of difficult access and risk. Given the statements, it is evident that the dynamics of the M.P.C. govern the increase of social wealth and reflect, proportionally, the increase of misery and exploitation (general Law of capitalist accumulation). The "urban land commodification, driven by the ideology of consumption, strengthens a long artifice of deconstruction of housing as a social good, in view of its transmutation into a commodity and individual financial asset" (BAZZOLI, 2019, p. 51).



And in view of this, Gonçalves (2000, p. 250) describes that:

The issue of housing becomes a structural problem of the capitalist mode of production due to the inequality in the distribution of income, which accentuates the deepening of misery alongside the expansion of wealth, causing profound consequences, such as low wages, unemployment, the difficulty of meeting basic needs (GONÇALVES, 2000, p. 250).

In this way, "the issue of housing has its genesis linked to the roots of capitalism" (SOUZA, 2016, p. 69). For if we analyze the history of Brazilian housing policy, we must highlight that it was only after 1964, a period marked by the dictatorial regime, that the Housing Financial System (S.F.H.) was created, together with the National Housing Bank (B.N.H.), with the objective of "stimulating the construction of housing of social interest and the financing of the acquisition of one's own home, especially by the lower income classes of the population" (BOTEGA, 2007, p. 67). With the extinction of B.N.H., other policies were being implemented, such as the National Program of Housing *Mutirões* of the Special Secretariat of Community Action (SEAC), which aimed to finance housing for families with incomes below three minimum wages (MOTA, 2017); the PAIH (Immediate Action Plan for Housing). However, these programs had excessive standardization and many legal requirements, which prevented many municipalities from raising the resources available.

In 1992, at the National Housing Forum, composed of civil society entities, sectors of the State, and construction entrepreneurs, whose objective was to build an alliance between the interests involved in the financing, production, and use of housing, progress was made in recognition of the need for land regularization, a neoliberal action aimed again at the interests of capital.

In another attempt to focus public policies on the issue of housing, the government of then President Lula launched 2007 the Growth Acceleration Program (P.A.C.), seeking to articulate private investments with public investments, and the result of this public-private partnership was the "Minha Casa Minha Vida" Program with the goal of building one million homes for the poor population. The current government of Jair Bolsonaro follows this same neoliberal line and creates the Green and Yellow House Program, which aims to expand the housing stock and meet the housing needs of the population.

Despite the ideological discourses in defense of the less favored, what is perceived is that the investments of state capital meet the interests of certain social groups. As Souza (2016) states, housing projects currently aim to meet the demands of the real estate market and the service sector through the incorporation of new areas or modification of the uses of those already dense. And in this scenario, what is observed is that "access to housing, through the real estate market, governed by financial capital, does not treat housing as a right, but as a product, which the citizen 'can' have, if he pays" (BAZZOLI, 2019, p. 91).



The weakness of the social State can be ascertained in cases of the evident failure of the Minha Casa Minha Vida Program – PMCMV, without taking away the merit of the program in various situations, however in some cities such as Linhares-ES, they have 992 PMCMV houses that were not delivered, having reached the point of having more than fifteen hundred abandoned houses, Cases like these should be better studied and analyzed because if there had been more publicity, with consequent transparency and more popular democratic participation, such situations would hardly materialize.

FINAL REMARKS

This article addresses the challenge of contemporary societies in the implementation of a welfare state, focusing on the fundamental right to multidimensional decent housing based on the ideas of Habermas. We analyze the limits of the welfare state in relation to the implementation of a democratic policy of social justice. The crisis of the welfare state is evidenced by its inability to reconcile economic growth and social integration, especially regarding the fundamental right to housing. And although there are several international treaties created to guarantee the human right to housing and a balanced environment, these efforts have not led to the construction of efficient land regularization plans by States.

Domestically, in the Brazilian constitutional context, housing is an individual right, and the social function of the city is a duty of the State to the citizen. However, despite the fundamental precept of decent housing, we witness a multitude of the destitute, the displaced, the uninhabited, and on the margins of the exercise of this fundamental right.

On the other hand, in the capitalist process of urbanization and irrational occupation of the land, housing is a product that has a specific use and exchange value: as a product of the process, it is a commodity, as a condition for the M.P.C. It is then concluded that housing, by the conditions of the real estate market, acquires all the characteristics of a consumer product, such as use value and exchange value.

However, a finding that is often made of land regularization programs is that to produce a real impact on poverty and social exclusion, land regularization programs must be in tune with other public, political, and economic management strategies, and the population, which has never had the custom of participating, should be encouraged to do so.

The right in this project of the welfare state, the utopian nucleus, consisted in the establishment of a compromise between the classes so that the humanization of work could be conducted by administrative means.

The programmatic of the welfare state, in this sense, took the form of reformed working conditions in favor of the working classes, and its objective would consist specifically in the attempt to



amortize the impacts of labor exploitation, to normalize the role of wage workers in the economic system. However, the compensation made the worker feel as if one of the welfare states offered what the private core could not offer.

As a preliminary conclusion, it is not difficult to generalize that the State must regulate the economic cycle in order to stabilize it, in order to foster its continuous growth, avoid crises of accumulation, and create jobs, that is, enable a process of economic growth that reconciles the dynamics of capital accumulation with an equitable distribution of income.

Being characterized that the theme of democracy and the paradigm of the Social State need to be widely debated because almost daily crises in the process of accumulation of wealth mark the daily fate of the life of all of us, imprinting on the public-political sphere where the role of the State will never become outdated, no matter how problematic it may be. However, the population cannot accommodate itself and fail to supervise state action.

And when it comes to the Fundamental Right to Housing, the idea of democracy with transparency, or as Habermas proposes, with wide "publicity" and consequent popular participation, proves to be one of the best ways to reduce the problems of ineffective state interventions in the right to housing, as in the case of the implementation of practically uninhabitable housing, because they are in distant places, or even because they have not been built correctly, causing the real estate production market to produce housing, social or not, that obeys the social function of real estate, not just aiming at profit or accumulation of wealth at any cost.

The theme is quite broad and must be analyzed in detail case by case, the failure or success of housing programs; however, in general, it is possible to see that even if the State has been willing to intervene in the real estate production market, aiming at social welfare, that is, thus overcoming the production of real estate of the capitalist system, These state interventions are not being enough to guarantee the realization of the fundamental right to housing to the entire Brazilian population, moreover, because these state interventions have occurred, as seen, sometimes in a bizarre way, aiming only to favor the interests of real estate agents and large entrepreneurs, and not the interest of marginalized populations, thus keeping housing as mere commodities disposed of in the market.

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