

Municipal and regional planning in Brazil: *An overview of contemporary planning processes*

Jonathas Magalhães Pereira da Silva

SUMMARY

Since 1984, Brazil has taken over the democratic process after two decades of dictatorship supported by the Institutional Act No. 1 of April 1964. Between 1964 and 1984 the military government sought economic development through centralized power at the federal level. Urban planning was characterized by technocratic objectivism that despite presenting competent diagnoses, often departed from the actual conditions of implementation of its proposals or sociocultural needs of residents.

The urban debate, which was treated prior to 1964 as one of the important factors for the formation of Brazilian nationality, was then regarded only as an economic development issue, specially until the approval of the National Constitution of 1988.

As a result of the new constitution of 1988 the country is undergoing a process of decentralization of power. The city, as a federative entity under Article 1 of the Constitution, shall have prerogative on decisions regarding the use and occupation of its territory as defined by Article 30 of the constitution.

This is a long process of change beginning early in the twentieth century and strengthened by mid-century with the Brazilian Municipalities movement that created the Brazilian Association of Municipalities in 1946 and organized the Congress of Brazilian Municipalities with an important role in the performance of IBAM - Brazilian Institute of Municipal Administration - created on October 1st, 1952, with its constitution approved by the Brazilian Municipalities Movement at the II Brazilian Congress of Municipalities, held in São Vicente, São Paulo State.

In the 18-year period between the Constitutional Charter of 1946, and the Institutional Act No. 1 of 1964, Brazilian politics experiment renewed democratic processes, from the exit of President Getulio Vargas in 1945, to a new dictatorial military regime in 1964. In this period the Municipal movement was very active with urban proposals to the National Congress of Brazilian Municipalities.

On August 21st, 1964, four months after Institutional Act No. 1, SERFHAU - Federal Office of Housing and Urban Development, is created by Law no. 4380 as a federal institution for the preparation and coordination of national policy in the field of integrated local planning.

It takes two years for Federal Decree 59 917 of December 30th, 1966, to replace SERFHAU's specific functions by establishing standards and procedures for the planners proposed legislation, technical assistance and dissemination of experiences, and its main tasks towards the development and coordination of national policies for integrated local planning.

The methodology of SERFHAU promoted a technician focused on rational evaluation of urban problems when drafting the Master Plan. Some resulting urban spaces have been heavily criticized on many works, by Ribeiro and Cardoso (1990 and 1994), ROLNIK (1997), BONDUKI (2000), Maricato (2001), and VILLAÇA (1999 and 2005). The authors highlight recurring items:

- the lack of participation and inclusion of different social groups in the definition of investment proposals and the formulation of public policies;

- technocratic urban planning which despite producing profound specific diagnosis, often become irrelevant for decision making, privileging the interests of the economic elite based on a legal doctrine.

Effective participation of the organized society in the formulation of the constitutional text of 1988 resulted in important achievements, particularly on issues related to urban reform. A developmental view, previously in force, raises the concern about the city's social functions and welfare of its inhabitants, who must now, under Article 182 of the Constitution, be the goal of urban development policy.

The Master Plan, under Article 182, becomes mandatory for municipalities with over 20,000 inhabitants, and a basic tool on development policy and urban sprawl, when implementing the new principles of the social function of property, and establishing a prevalence of diffuse rights over the individual property rights.

Since then, a City Council has the charter to legislate on municipal territory with the objective to fully gain the social functions of urban properties by adhering to basic requirements of city planning as expressed in the Master Plan.

These new principles will promote the creation of new tools for occupation and urban growth written as Law 10.257, of July 10th, 2001, known as City Statute, which regulates Federal Constitution articles 182 and 183, with general guidelines for urban policy.

The organized society participation in the formulation and implementation of master plans shall be guaranteed on State Constitutions and Municipal Organic Laws as well as in Law 10.257, providing democratic management of cities through the participation of the population and associations representing various segments of the community in the formulation, implementation and monitoring of plans, programs and projects for urban development.

The City Statute was therefore the result of a long process. No doubt the instruments regulated by this legislation result from demands created by social movements linked to urban reform, however there are limitations in its constitution and its application both in the field of public administration and in the field of urban law.

Many authors (REIS 2008, Bueno 2004) indicate the imbalance between the burden of responsibility that municipalities have undertaken after the 1988 Constitution and the available resources to put into practice the agreed upon policies. Corruption in this sphere of power was also prominent in the early years, and still reflects a lack of preparation of public officials, and the reluctance of the traditional society to engage in a democratic process that relies effectively on broad mandatory participation.

LEGISLATIVE, PLANNING AND SOCIETY: Metropolitan areas

Recent laws with socioeconomic measure focus on the ongoing changes on rural and urban environments, providing new horizons for discussion. The new reality introduces possible new regions where the population is concentrated, revealing processes within urban conurbation environments and aspects of economic interdependence between cities.

So, in Brazil, it was the accelerated urbanization process which has fostered the creation of metropolitan regions, discussed since the 1960s and 1970s when the urbanization rate jumps from about 57% to 73% - then increases from 75.6% to 81% between 1971 and 2000. The first tentative territorial management efforts were proposed by City Governments such as Porto Alegre - RS – in the South Region of the country – or by local governments like Belém,PA – in the North Region of the country – in a joint project with the federal government.

The 1964 Constitution establishes that the Union has the prerogative to establish metropolitan regions, by means of a Supplementary Law. Federal guidelines, on the 1967 Constitution

and the Constitutional Amendment of 1969 were the subject of extensive political dispute (Rolnik, 2004). Only in 1973, the Complementary Law no.14 voted, instituting the metropolitan areas of Curitiba, Belem, Belo Horizonte, Fortaleza, Porto Alegre, Recife, Salvador and Sao Paulo.

During this period, the creation of the metropolitan areas was related to the logic of the national policy of economic development aimed at the expansion of industrial production. Metropolitan areas were seen as a place where urban development would be appropriate.

With the resumption of democratic rule, the federal authority on metropolitan areas is identified with the authoritarianism of the military period, so the 1988 Constitution transfers to State Governments the prerogative to define metropolitan regions. However, the simultaneous recognition of municipalities as federal entities hinders the legitimacy of State Governments in the planning and management of metropolitan activities.

Municipalities have difficulties to assume and share roles within the distribution of new responsibilities between different government bodies. Several diverting factors can be highlighted, from territorial dimension (Porto Velho with 34,082 km² - Campinas with 796 km²) as well as from other attributes such as: population, climate, culture, history, role in urban hierarchy and economic capacity. (Azevedo 2004, Gouveia 2005, Bueno 2004, Silva 2007).

Coordinated actions in metropolitan areas will be hampered also by the Brazilian Federal System with no instances of cooperation to reduce the inter and intra-regional issues and disputes. The "tax war" dispute between municipalities to attract investment to their territories further complicates this process.

In 1995, seven years after start-up, States began to exercise power and have established 21 new regions. The new regulatory regions are quite different, even in States where more than one metropolitan area co-exist, with specific treatments for each. This is the case of the State of São Paulo where there are three metropolitan areas: Sao Paulo, Campinas and Santos.

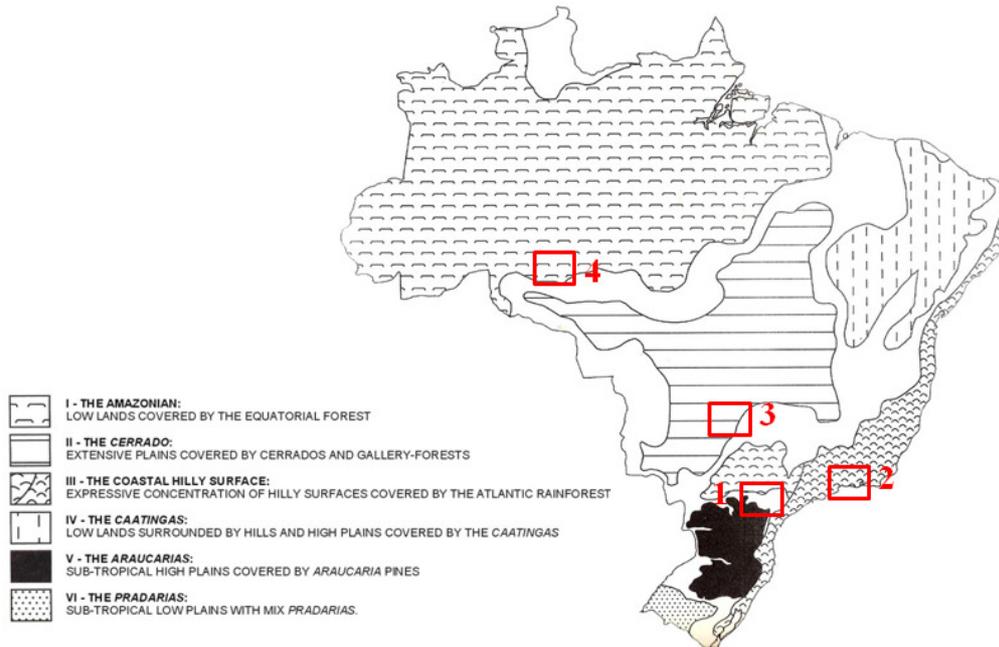
Political pressures and the lack of a clear criterion to define the conditions of the metropolitan municipalities, lead to extremely heterogeneous regions, such as the ones belonging to the phenomenon of metropolitan counties.

Despite all the difficulties pointed out in structuring for regional planning, the Municipal and State administrations are approaching maturity in democratic processes. Since 2005 we have seen a return to regional planning, and several States revised their laws "unifying the treatment of the problem in the State, while disregarding the differences between the regional units". (Observatory of the Metropolis, 2005).

LEARNING FROM EXPERIENCES

From this short introduction the reader realizes the changes that occurred over the past 22 years, of which we can highlight: a) the alternation of responsibility and prerogative of the various government bodies to legislate over territory, b) the decentralization of power in a process strengthening local authorities every time politics takes up democratic process and c) the presence of new principles and methods of urban territorial planning (social function of property, participation).

This article discusses it using case studies, some attitudes and actions that occurred from 2001 allowing the reader to understand some of the opportunities, barriers and common characteristics found in the cases presented here.



- 1 – Campinas - SP
- 2 – Espírito Santo - ES
- 3 – Porto Velho - RN
- 4 – Cuiabá - MT

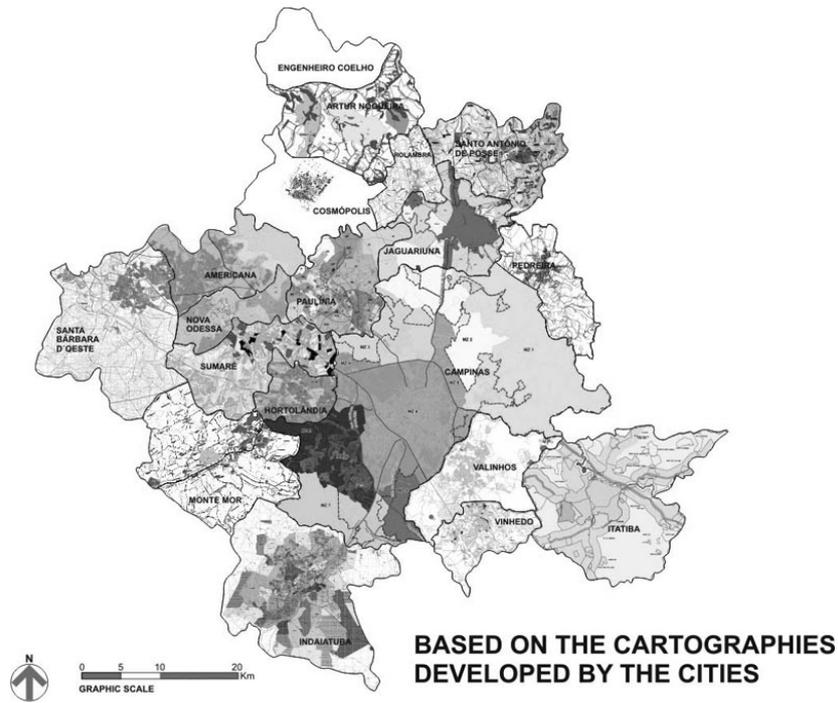
Metropolitan Area of Campinas – 19 municipalities

I am a teacher and researcher at the Master Course in Urban Design from the Pontifícia Universidade Católica de Campinas – PUC-Campinas where I had the opportunity to develop a survey entitled "PROCESSES FOR OCCUPATION OF PUBLIC SPACES AND THE RIGHT TO URBAN HOUSING" which evaluated the 19 municipal master plans in the metropolitan region of Campinas

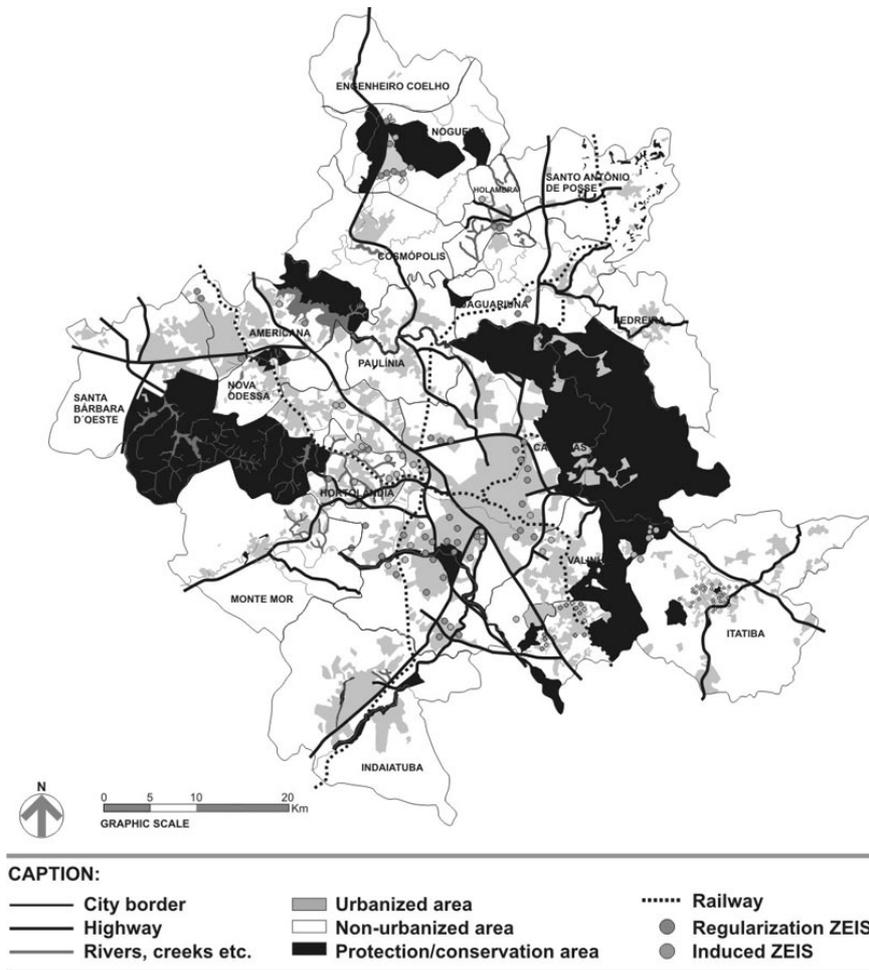
These master plans were the result of individual actions of the municipalities seeking to meet the federal law (City Statute) that established a date for completion of the master plans in cities with more than 20,000 inhabitants

The maps, synthesis of the research, were elaborated based on the cartography developed by the 19 cities. It is interesting to reinforce the fact for, although we come to a map encompassing the 19 cities of the metropolitan area, the bases are from local instances.

This research, developed throughout 11 months, was able to build a basis that will serve as a support for data increment. Created in a vector manner, it may, at any given point, be transformed into a georeferenced basis. This work has already begun with the city of Campinas.

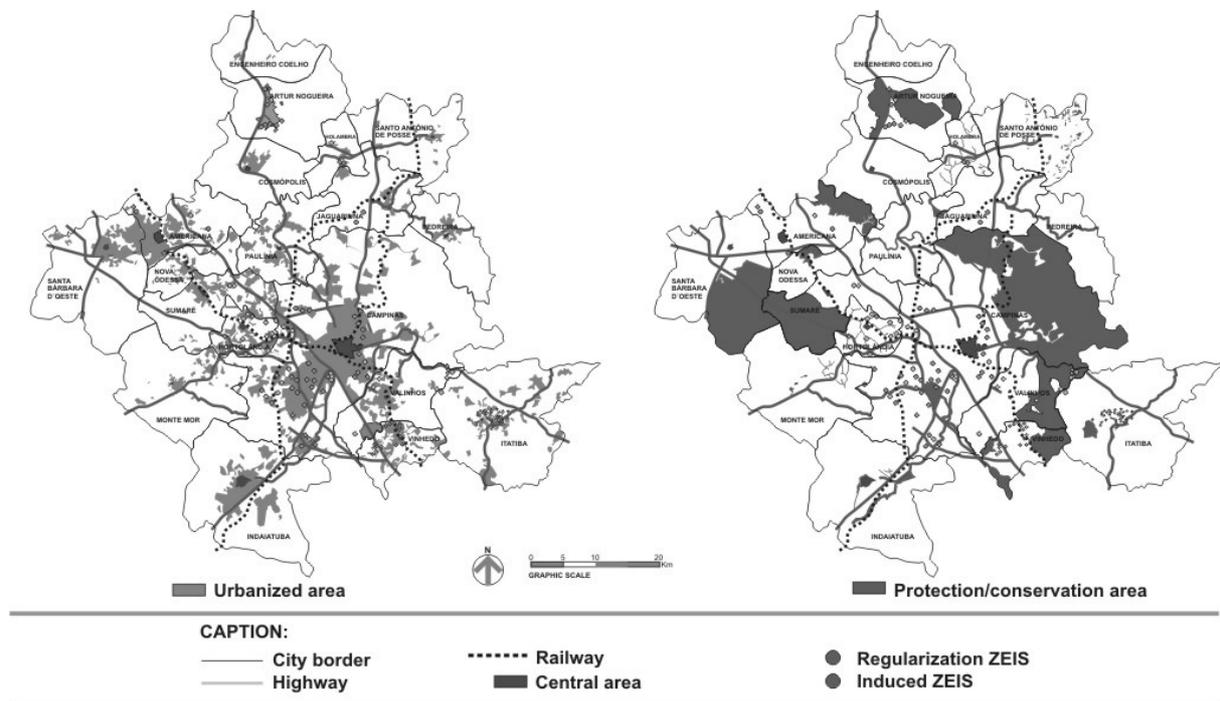


We attempted to point out the urban perimeter, the urbanized areas (which are not necessarily consolidated), the downtown area, the location of the ZEIS (Special zones of social interest), the areas of environmental protection or conservation, the main highways and the hydric system indicated on the municipal cartographic bases.

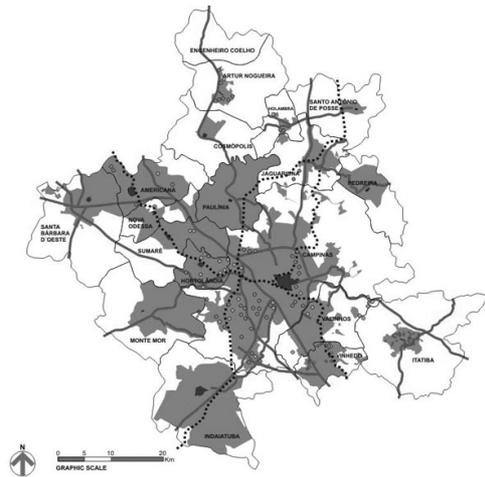


The synthesis map identifies the following:

1. Continuity of the environmental interest areas between the cities of Vinhedo, Valinhos, Campinas, Paulínia and Americana;
2. Continuity of the environmental interest areas between the cities of Vinhedo, Campinas, Monte Mor, Sumaré and Santa Bárbara D'Oeste;
3. Fragmentation of the environmental interest areas in the cities of Artur Nogueira, Santo Antônio de Posse, Holambra and Jaguariúna, located north of the metropolitan area;
4. Continuity of the parceled urban area on the axle from Vinhedo to Santa Bárbara D'Oeste with great rural use areas;
5. Existence of two distinct urban areas in Jaguariúna and Santa Bárbara D'Oeste which are spatially related to neighboring cities (Hortolândia and Americana, respectively);
6. Legal preoccupation on the headwater areas, specially Campinas, Americana, Santa Bárbara D'Oeste and Sumaré;



7. Concentration of ZEIS (special zones of social interest) on the south and southeast sectors, specially southwest from the Anhanguera highway;
8. Concentration of ZEIS in the border areas of the parceled urban areas;
9. Little superposing between ZEIS and environmental interest areas, which makes us question whether the irregular occupancy that normally takes place in environmental interest areas is being taken into account by the legislation;
10. Continuity of environmental interest areas between the cities of Vinhedo, Campinas, Monte Mor, Sumaré and Santa Barbara D'Oeste which are longitudinally cut by the highways; the SP-348 (Bandeirantes highway) is located in the middle of the existing matrix between Sumaré and Santa Bárbara D'Oeste;
11. Continuity of the environmental interest areas between the cities of Vinhedo, Valinhos, Campinas, Paulínia and Americana, which are cut by the SP-065 (Dom Pedro I highway), the SP-340 (Governor Dr. Adhemar Pereira de Barros highway) and SP-332 (General Milton Tavares de Souza highway);



CAPTION:
 — City border
 — Highway
 - - - - - Railway
 ■ Central area
 ■ Urbanized area
 ● Regularization ZEIS
 ● Induced ZEIS

12. Urban perimeter, showing the continuity of the areas capable of urbanization permitted by the combination of municipal laws;
13. Fragments of rural areas, located between Paulínia and Campinas, between Campinas and Monte Mor and, finally, between Nova Odessa and Sumaré.

Other issues must yet be analyzed in order to come to a new synthesis; however, it is appropriate at this point to start a long process in the attempt of indentifying the contradictions between reality and the legislation mapped in this work.

To conclude the research work, each city was given points according to the obtained results, resulting the table below. The points range from 0 to 2. The city is given 2 points when it fully complies with the analyzed item, 1 when it partially complies and 0 when it does not comply with the analyzed item.

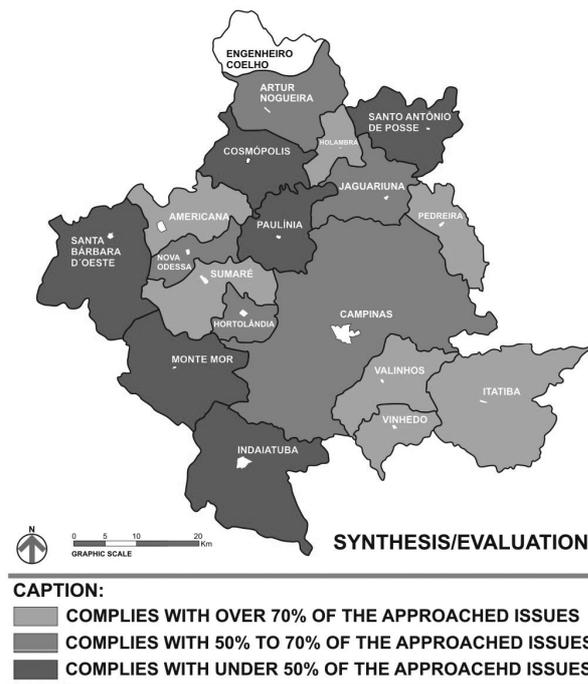
The picture attempts to reflect the juridical range of the municipal legislation. We are not evaluating the pertinence or efficiency of the law or its adequacy to the social reality of which it is part.

The cities who obtained more than 71% of the punctuation were marked in green, the ones who presented a result from 51% to 64%, in gray, and those who obtained less than 43%, in red.

	Americana	Artur Nogueira	Campinas	Cosmópolis	Engenheiro Coelho	Holambra	Hortolândia	Indaiatuba	Itatiba	Jaguariúna	Monte Mor	Nova Odessa	Paulínia	Pedreira	Santa Bárbara D'Oeste	Santo Antônio de Posse	Sumaré	Valinhos	Vinhedo
YEAR OF MASTER PLAN	2006	2007	2006	2007		2008	2008	2001	2004	2004	2006	2006	2006	2008	2006	2006	2006	2004	2007
Macrozoning	2	2	2	0		2	0	1	2	1	0	0	0	0	2	0	2	2	2
Management – Councils	1	2	1	1		2	2	1	2	1	1	2	1	2	1	1	2	2	2
Management – Funds	2	0	2	0		2	2	1	2	1	0	0	0	2	2	0	1	0	0
System of urban open spaces	2	2	1	0		0	1	1	1	2	0	2	1	0	0	0	1	1	1
Parceling	1	0	0	1		2	0	0	1	1	0	2	1	2	0	0	0	1	2
Housing – ZEIS	2	2	2	1		2	2	0	2	1	0	0	0	1	1	0	2	2	2
Urbanistic Means – Regularization	0	0	0	0		2	0	0	0	0	2	2	2	2	0	0	2	2	2
RESULTS	71%	57%	57%	21%		86%	50%	29%	71%	50%	21%	57%	36%	64%	43%	7%	71%	71%	79%

Three levels of juridical range of the municipal legislation resulted from the analysis:

1. Americana, Holambra, Itatiba, Pedreira, Sumaré, Valinhos and Vinhedo;
2. Artur Nogueira, Campinas, Hortolândia, Jaguariúna and Nova Odessa;
3. Cosmópolis, Indaiatuba, Monte Mor, Paulínia, Santa Barbara D'Oeste and Santo Antônio de Posse.



From these results, a map was created with the purpose of placing the data spatially on the city territory.

In the course of the survey and analysis of the master plans developed between 2001 and 2008 in the cities of the Metropolitan Area of Campinas, it proved pertinent to include the complementary legislation regarding land parceling, use and occupancy of the cities, as well as their Housing Plans, resulting on the survey and analysis of fifty laws and plans.

Through comparative analysis, adopting queries common to the 18 sets of laws, it was possible to draw six pictures providing a general overview of issues regarding Macro zoning, City Management, System of Urban Open Spaces, Parceling, Social Interest Housing and Use of the Urbanistic Means.

From these pictures, it was possible to generate maps that placed the mapped issues on the metropolitan space, enabling a new reading of the developed material. Therefore, a cartographic basis comprising all of the metropolitan area of Campinas was put together, allowing the comprehension of the contact zones, as well as spatial tendencies that are not restricted to the municipal borders.

It is appropriate to stress that the synthesis map, elaborated from the reading of the legislation, is not expected to reflect the existing reality. It is believed that a body of laws built by a society with a strong hierarchical tradition and great social inequalities most likely does not mirror neither the contradictions nor the sociocultural reality of the majority of the population. Urban legislation in Brazil has always worked as an instrument which favors the permanence of economic power. Hence, an analysis of municipal laws does not mirror the reality of the city. The analyzed legislation certainly pilfers conflicts, apparently settled in the writing of the law, but far from any real solution.

Therefore, despite the understanding of the infinite limitation a master plan has in promoting social transformation, of the limited participation of social sections and of the political power being frequently at the service of the economic power, our interest is to lean over the writing of the law in order to identify the interpretation and incorporation of the new concept of *property's social function* in the new models of administrative and territorial management and in practical measures that apply the new urbanistic means.

It is expected that the analysis and results pointed by the research enable a beginning of dialogue with municipal technicians of the metropolitan area of Campinas, potentizing the next step which attempts to investigate the location of public investments on housing and on the qualification of the system of urban open spaces in the cities of the metropolitan area of Campinas.

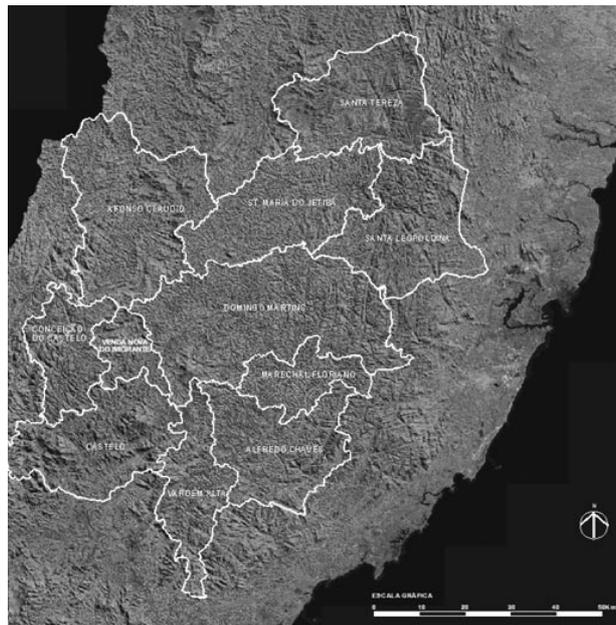
Consultancy for eleven municipal committees training activities related to the development of Municipal Directive Plans in the Espírito Santo State highland region.

Counseling to eleven neighboring City Governments in the highland region of Espírito Santo State on building up each of their respective Municipal Master Plans, and training their individual Municipal Plan Committees.

The 11 Espírito Santo municipalities, where I held the position of technical coordinator on the development of their Master Plans (in 2005), went through a very different process than the one described for Campinas since the State Government of Espírito Santo assumed the role of central agent ensuring the potentiating of the technical conditions for local plans.

The eleven municipalities of this region are small, do not suffer great real state pressures, do not indicate housing deficits and do not belong to a metropolitan area, even though the region is known as the "water tower" for the Vitoria Metropolitan Area.

The reasoning behind the State Government actions was directly related to the insufficient technical and administrative capacity of City Governments to develop their Master Plans. The proposals coming from residents and legislative proposals are the protagonists of the possible realities resulting from the cultural, social and economic conditions of each municipality.



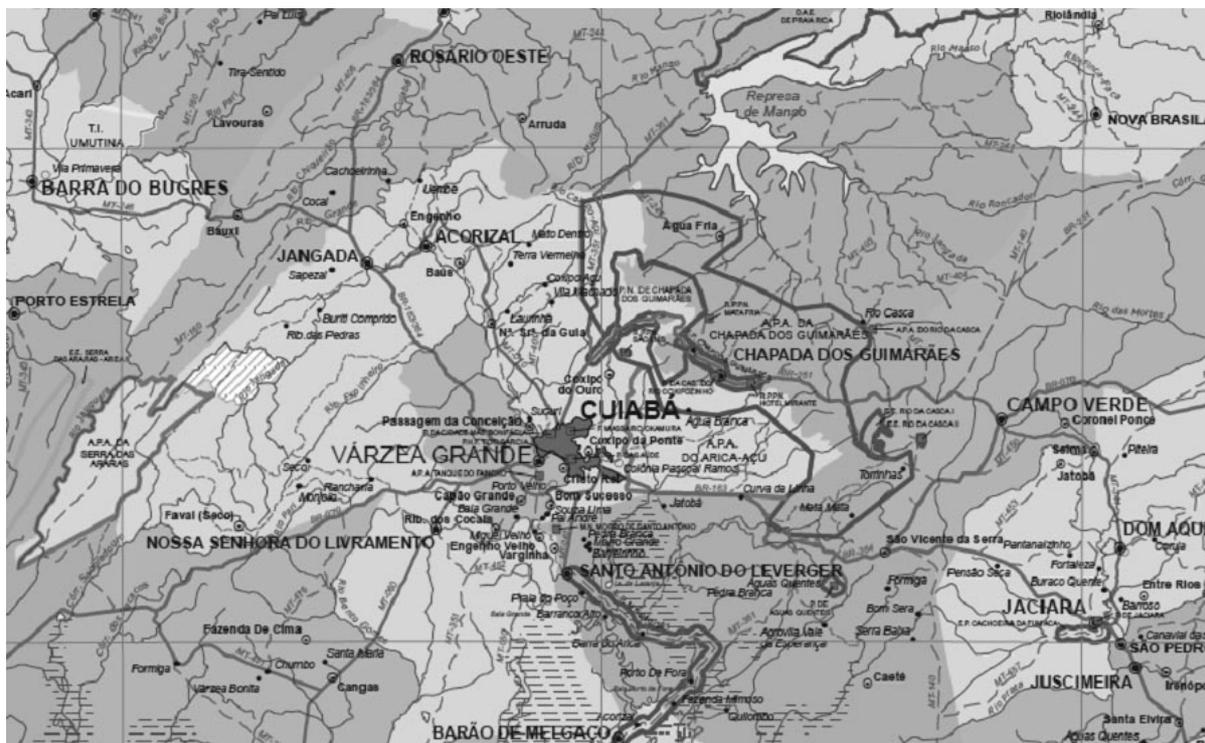
Participation and public processes promoted the involvement of local technicians, organized society and the legislative body. The participatory process is here understood as one in which knowledge about reality is socially constructed, that is to say, through the participation of representatives from different sectors of society which, in turn, have different interests in how the different actors appropriate the natural resources, as well as in how they occupy and transform the territory.

This case study shows a successful shared action between different bodies of the federation, each one allowing to define individual roles in the process resulting on complementary rather than competitive actions.

Metropolitan Region of Cuiabá River Valley

The context for the creation and implementation of the National Urban Development, set forth in 2004, highlights actions aimed at strengthening the capacity for planning and management of Brazilian municipalities, especially the procedures for formulating and implementing their Master Plans in accordance with the Statute of the City.

Following this guideline, the state government of Mato Grosso has organized planning actions aimed at promoting follow-up and deployment of Master Plans of the new metropolitan region of Cuiabá River Valley, created by State Law of Mato Grosso No. 359 of 2009 including Cuiabá, Várzea Grande, Nossa Senhora do Livramento e Santo Antônio de Leverger. The same law establishes the creation of the “Surrounding areas of the Metropolitan Region of Cuiabá River Valley” comprising: Acorizal, Barão do Melgaço, Chapada dos Guimarães, Jangada, Nobres, Nova Brasilândia, Planalto da Serra, Poconé e Rosário Oeste.



The challenge here is to allow the disruption of administrative boundaries for certain actions that require cooperation among municipalities to achieve their goals. Issues such as the quality of the water system, disposal of solid waste, cooperation between networks of health and education are points to be addressed.

This process, in Mato Grosso, started in 2005, before it was considered a metropolitan area. The working group is composed of representatives of municipal government and civil society, coordinated by the Department of Planning of the State Government and linked to the Ministry of Cities of the Federal Government. This case indicates a breakthrough due to the various spheres of government dialogues in the formulation and implementation of planning actions.

Deployment of hydropower plants located on the Madeira River - Porto Velho



In the process of licensing of hydroelectric power plants planned for the Madeira River (located in the municipality of Porto Velho in Rondonia State) all three federal bodies were involved. Any action on a river that spans across state borders requires the involvement of a federal authority. The character of the action also required the federal involvement because the energy produced there would be linked to the national grid and therefore consumed mainly by the southeast and the cities near the Brazilian coast.

The working assignments caused a great change to local dynamics, demanding the transfer of district headquarters. Porto Velho was deprived of deciding the fates of some of its territory. Similar processes occur in cases where a large part of the municipal territory is housed in an area where state law is concerned (conservation area, state park) as is the case with several municipalities.

FINAL CONSIDERATIONS

In the case of building hydroelectric power plants as a federal action, state and municipal bodies, as well as domestic and international economic groups were involved in the dispute, the shares are lengthened by the consolidation of a pact. It is necessary to clarify who supports the pact: the Brazilian society or the economic power group that benefits from the actions. However, we highlight here how the process, despite all its faults, is the result of a dispute of interest (environmental, economic, social, cultural). In spite of the weight given economic decisions, that can bring back times when the plans had only this character, it is already possible to realize other aspects considered in the discussions, though timidly present.

This power struggle is very present in the metropolitan areas and their borders. Policies are closely related to economic power and often adopt territorial strategies with actions that are not always convenient for the population or the environment and social conditions. On the other hand, there are advances in joint actions such as through consortia of municipalities with or without help from state government.

Admittedly, despite continued economic order on distribution of the benefits of urbanization and the search for a social equity, we can highlight the concomitant existence of a transformation that moves at a slow pace, where the rights become diffuse and overlap individual rights through processes of inclusion of groups historically excluded from the planning process, and that for that very reason, are still weak compared to the current economic and social organization.

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Dr. Jonathas Magalhães Pereira da Silva
Pontifícia Universidade Católica de Campinas
Post Graduate Urbanism Course
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