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From CONTESTED_CITIES to Global Urban Justice

Stream 2

Article nº 2-010

**HABITAT AS A CONTESTED NOTION
A GUIDELINE ON UNDERSTANDING URBAN POLICY**

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A guideline on understanding urban policy

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ABSTRACT

This paper discusses the semantic changes of the word “habitat” in the time of the current economic crisis. More particularly, it studies the legislation related to habitat that it had been produced during the latest socio-political transformations, in order to investigate whether the legal discourse held tends to redefine the notion of habitat. The paper considers the order of discourse as a social practice and as a political act, as the outcome of power relations and power struggle and as the term for a potential or actual area of discursive conflict. Bearing that in mind, the central questions posed regard the continuities and discontinuities in habitat policy related to the violent political change. Which are the main aspects in which habitat is perceived? Who is governing habitat issues, or in other words, who are the key-actors involved in? What changes in urban policy are indicated according to the changes of its legislative framework? For answering those questions the paper begins with a brief introduction on the Greek case. Secondly, the theoretical research framework is described, as well as the main methodological tools and the procedure which has been followed. In the third part the main laws adopted, during the period under study, are grouped in five categories according to their content and each category is briefly commented. In the fourth and last part the main points are summarized in a way of answering the questions posed. According to the analysis of the data the article’s conclusion is that habitat is perceived as having a financial, a material and a political dimension and this fact consequently determines the main actors and changes related to habitat issues.

KEYWORDS: habitat, discourse analysis, crisis, law, governance.

1. INTRODUCTION

Before moving to the analysis of the legal discourse as described above, it is important to outline briefly the main points of the Greek context, as regards to the history of Greek urbanization and the current conjuncture of the economic crisis.

Despite its ancient history, the Greek urban complexes, Athens included, are actually new cities, built, mostly during the post war decades. More particularly Athens expanded rapidly, and to some extent uncontrollably, due to massive internal migration for economic and political reasons. This demographic and spatial transformation started in the early 1950s and lasted almost three decades during which the cities grew besides the norms of official planning. The procedure followed combined large scale capital investments in public basic infrastructure, industry or energy production, with a highly dispersed small scale, private housing activity. In Greece urbanization did not come as a consequence of the concentration of economic activity, but, rather reversely: the concentration of people and capital created the conditions for economic growth. This particular nature of the Greek post-war urbanization, without industrialization, is a key in understanding the state's spatial interventions and policies over time. (Leontidou 1990)

With the country gradually, during the following decades, sliding away from the period of intense urbanization, we reach 2010, when Greece enters into the Support Mechanism a fact that formally signifies the beginning of a sovereign debt crisis. Its starting point was the global crisis which was triggered by the inability, of a significant part of the lower class of the US society, to repay high-risk mortgage loans, from which financial derivatives were created and become the vehicle for the spread of the crisis around the globe. In this context, Greece remains the terrain where the crisis takes its most severe and profound effects implementing the most punishing austerity programme in post-war Europe. Consequently, Greece chose to change to some extent the existing legislative framework related to habitat issues, guided by the threat of an economic crash and its fiscal obligations. During the six years of austerity policy, the voted laws hit the most vulnerable and put in danger of dispossession of primary residences thousands of people at a time of acute social hardship. The new legislation framework created will be reviewed, in this paper, in order to understand and reveal the implication of the semantic changes on habitat issues. Through an interdisciplinary approach, as described below, the research seeks to identify the different aspects, the key-actors and the main changes revealed by the analysis of the legal discourse under study.

2. BUILDING AN APPROACH

2.1 Theoretical framework

Drawing on a Foucauldian perspective the paper considers legal discourse as political discourse, and consequently, as a complex set of competing ideas and values, all of which are actualised in everyday practices and exemplify conflicts over meaning that are linked to power. We assume that while objects have an existence, external to discourse, our knowledge or understanding of them depends on the structuring of a discursive field. From this perspective, attention is focused on the ways in which the material and the social are articulated within discourses that establish relations between them. (Bridgman: 2014) But as the naturalised discourses are never definitively established, their moments can again become elements and thus objects for new articulations. (Jorgensen, M. Philips, L.: 2002) This last fact reveals the importance of the concept of hegemony which refers to a clash between discourses competing to fix the meanings of signs. Hegemony is therefore the dissolution of the conflict through a displacement of the boundaries between discourses

that collide antagonistically. Enriched by the contributions of N. Fairclough, C. Mouffe and R. Wodak, we follow, the critical discourse analysis' approach that primarily studies the way social power abuse, dominance and inequality are enacted, reproduced and resisted in the legal texts and content of laws. (Van Dijk: 1993) Rejecting the possibility of a 'value-free' field, it is argued that legal discourse is inherently part of, and influenced by social structure, and produced in social interaction.

The aim of the use of this particular approach is the ability offered on understanding the ways discourse structures enact, confirm, legitimate, reproduce or challenge relations of power and dominance in society, while enabling important insights about the conduct of urban policy. (Dick: 1993) It is therefore argued that a close examination of language in the form of utterances and texts can provide a richer and more nuanced understanding of the policy process than is possible from more traditional methods or techniques. (Jacobs: 2006).

2.2 Research method

Bearing the above theoretical framework in mind, we examine its implementation on the text and content of laws adopted during the period of the Greek crisis. This period is marked by the overproduction of legislative regulations, related to habitat issues, including the adoption of new laws and the transformation of the existing ones. Approaching those texts of legal discourse with the use of the tools of the critical discourse analysis, paper's main goal is to contribute to the identification of the dominant notions of habitat, to the understanding of habitat policy and to provide some key elements for discussing critically the political nature of habitat transformation, in the crucial historical shift of the Greek economic crisis.

After accumulating a significant part of the main laws voted during the period under study, our research was focused on the analysis of the explanatory statements of each one and concluded in their division to five different groups according to their contents. The paper follows a three-layer approach which combined analysis of: the text (recording meaning's transformations), the discursive practice (study of the explanatory statements) and the Greek conjuncture (socio-political framework). This analysis finally concluded in a brief description of the laws' main policy intention and in comments which explore potential answers to the central questions posed. It is finally noted that the paper does not attempt an exhaustive analysis of laws and has a "non-finito" character since this research is still in progress, and the conclusions are more likely to be open questions for discussion rather than definite answers.

3. FIVE GROUPS OF LAWS

3.1 Laws on property and transfer property taxes

During the period under study, an overproduction of laws on property and transfer property taxation is observed. More particularly, the laws voted are either increasing the rates of already existing taxes (Laws 3842/2010, 4110/2013) or introduce new ones (Laws 4223/2013, 4276/2014). Besides, those laws provide the creation of several mechanisms who record, in a detailed way, the characteristics of the real-estate's property so as the property would be more easily imposed to taxation and controls.

Generally speaking, in Greece, owning real-estate property is taxed annually according to three factors: the size, the age and the location of the property. Apart from the taxation imposed on ownership, every transfer of real estate property is also taxed (Laws 4254/2014, 4316/2014). In this context the ministry of Finance announced on 2011 the introduction of a special, temporary tax that would be assessed to all properties, so as to

qualify for the next bailout tranche and avert country's default. According to the new legislation adopted, the tax applies to all property owners, regardless of property value and income tax filing status. The only exemptions are properties owned by the Greek Church (one of the country's largest landowners), state-owned properties, embassies, nonprofit and charitable organizations and residential property with no evident electricity supply.

According to the text and the content of this first group of laws, habitat seems to be perceived as having, exclusively, a financial aspect. Habitat seems to be valuable and according to its characteristics, citizens are divided into categories and are imposed to taxation. Moreover, habitat constitutes a market, and more particularly, the real-estate market. It is thus an important indicator for the Greek economic growth and an evidence of the stagnation and liquidity of the market. Furthermore, according to the laws under study, the taxation of the real-estate property is thoroughly increased because of the debt crisis. So habitat is, in that sense, perceived as a mean of debt repayment and via its taxation, country's financial obligations are transferred to the citizens and the public debt is privatized.

It is worth noting that Greeks have traditionally regarded property as a secure investment. But during the last years habitat has become a huge millstone, given the increase of the taxes imposed. Home ownership – at nearly 87% the highest in the EU – has become cause for black humor. It is said that "if you want to punish your child, you threaten to pass on property to them". The taxes imposed are commonly known as "charatsi", a word used during the Ottoman Empire to name a law according to which conquered Greeks had to pay a special tax in order to have the right to keep their heads on their shoulders, for one year.

3.2 Laws on the State-owned asset

During the period under study, we observe the establishment of new structures, new agencies and new administrative procedures for the development of state owned property and of strategic investments. In May 2016 the new "Hellenic Holdings and Property Company SA", commonly known as the Mega Fund, was founded with main purpose to secure favorable terms for the development and exploitation of land and the facilitation of permitting procedures for selective large scale investments (Laws 4072/2012, 4146/2013, 4224/2013, as part of the so called "Medium Term Fiscal Strategy" Law 3985/2011). The privatization program is decided by an ad hoc supranational political configuration which includes the European Union, the European Central Bank, the International Monetary Fund and the Greek national government. The new fund absorbed the main organizations related to the management of the State property such as the Hellenic Republic Asset Development Fund SA (Law 3986/2011), the Hellenic Financial Stability Fund (Law 3864/2010), and the Public Properties Company (Law 2636/1998). The roots of the Mega Fund date back to 1979 when the Public Holdings Company was founded with the purpose to exploit real estate property belonging to the Greek State by leasing, selling, swapping etc. But its main inspiration comes from the German Treuhand trust, a privatisation agency which had been created in the summer of 1990 to take control and sell off previously state-owned East German assets. (Chatjimichalis: 2014).

The new mechanisms created consolidate specific planning and regulatory regimes which they do not name directly habitat as a type of real-estate property included but they are imply it in several ways. The emphasis of the new legislation is given to the creation of mechanisms that would facilitate both the entry of state owned real properties in the real estate market, and the location of strategic investments. Although this practice started before the crisis and involved facilities for the Olympic Games as well as properties that belonged to state agencies (Mantouvalou, M. Balla, E. Vatavali, F.: 2007), it now constitutes

a basic commitment of the country to the Troika. The legislation is marked by the conjuncture of the economic crisis. In this context, the State property (habitat included) is perceived as a mean of debt's repayment. It is perceived as a product that can be in stock, purchased and sold.

Last but not least, the framework provided changes and more particularly, is being rescaled. The legal discourse held, refers to spatial interventions of large scale, on real-estate funds, international actors and investors neglecting habitat as a building-unit and the owner as an individual of small ownership. Last but not least, the policies and politics entailed a transfer of authorities towards the supranational level while the bailout programs transferred the control of major public policy domains to an ad hoc international power figuration.

3.3 Laws on nonperforming loans and overdue social insurance contributions

Equally decisive has been the legislation adopted concerning the issue of nonperforming loans and arrears. During the last six years, the existing legal framework have gradually changed in order to manage the increasing number of the red mortgages (loans delayed more than 90 days) by providing the ability to banks to sell them to distressed debt funds (Laws 3869/2010, 3986/2011, 4224/2013, 4307/2014, 4346/2015, 4380/2016). The laws under study describe briefly the procedure followed by borrowers who are at risk of losing their property, because they do not agree to the eligibility criteria provided, in terms of the value of the protected property, the annual household income, the value of immovable and movable assets and their amount of deposits. Those borrowers are more particularly at risk of foreclosure, eviction, confiscation, auction and imprisonment. Only exemption is, under certain circumstance, the first residence which is under protection although the criteria provided are gradually limited. It is worth noting that while property taxes are calculated on the basis of objective values, the auction price is based on commercial values.

Similar to the above context, an institution of great importance is legislated, named "Insurance Debt Collection Center" (L. 4172/2013), as an annex of Public Social Security Organisations. The Debt Center is in charge of the collection of overdue social insurance contributions to Social Security Organizations, the creation of a digital database of debtors of Insurance Organizations and the execution of any action in order to fulfill its purpose, included the implementation of foreclosures. Debts exceeding 5,000.00 Euros are transmitted to the Insurance Debt Collection Center, along with debts from non-compliance with previous special payment arrangements. According to the report of the Insurance Debt Collection Center at September of 2015, the institution gathered 75.857 cases of debtors, which amounts to 12.92 billion Euro.

According to the above mentioned aspects, habitat is observed to be on the core of the discussion for individuals with non performing loans. Noting some similarities with the previous group of laws where the State assets are divested for the repayment of the public debt, in this case, habitat is divested for the repayment of the private one. In this sense, habitat appears as the main field of implementing someone's penalization for red mortgages, while the words commonly used are: foreclosure, court, auction and eviction.

Besides the Distress Funds are eager to grab the loans at spot prices and even give new loans to the borrowers to serve their old ones. This fact leads us to a second analogy observed between the policy followed for the repayment of the public debt and the repayment of the private one, as both, State and individual owner, are obliged to reproduce their private debt by taking out further loans.

It seems that habitat gradually becomes a financial product as a new market place is opening, the market place of "Red Loans". This fact constitutes a significant change of the main actors related to habitat issues. The small owners and the individuals are gradually

replaced by the borrowers while the main actors named are the real-estate funds, the distress funds, the banks, the international investment institutions, the creditors, the bank executives and the guarantors.

Finally, habitat complements the main list of assets for possible foreclosures in case someone keeps debts either to banks or social insurance organizations. It is also remarkable that during the era of crisis another innovation of legislation emerges concerning habitat, linking the process of foreclosures to overdue social insurance contributions. Extending the point of this arrangement, it is useful to wonder about future conceptions of habitat, given the fact the right to social insurance is directly linked to the right to housing by the legislation.

3.4 Laws about illegal and informal construction

The period under study is marked by the (re)emergence and intensive implementation of the Laws about illegal and informal construction. The first one (Law 4014/2011) provide terms according to which transactions of property with illegal constructions is prohibited and provisions the conditions under which those constructions can be legalized. The validity of the legitimizing process lasts 30 years, beginning from the payment of a special fine. The fine is calculated on a set of criteria and submitted to the "Green Fund", which was created in 2010, in order to act as a compensatory mechanism for environmental damage by supporting environmental regeneration projects.

Two years later, the first Law about illegal construction is declared unconstitutional by the Council of State (Law 3341/2013). The decision refers to the adulteration of Article 24 of the Constitution, which protects the rational urban planning and the building environment. Among others, it mentions that merely collecting fines is not a subject of public interest which would justify the adoption of arrangements with far-reaching consequences to the detriment of the environment. After the condemnable decision, the second Law about illegal construction (Law 4178/2013) appears. The way of dealing with illegal construction remains the same and the changes are related mainly to the introduction of further criteria which assess the illegal construction, to the calculation of the fine, to the number of doses, etc.

In this area, habitat is perceived as a construction distinguished as illegal and legal. Any illegal habitat building is blamed as a co-cause of the environmental damage that reduces the quality of life at the local level and as a phenomenon that must be stamped out. Specifically, the stated intention of the Law 4014/2011 is to draw a "red line" in illegal construction. However, the recommended way to compensate for the environmental degradation is the entry of illegal constructions in the process of "adjustment" or "settlement" or "legalization", through the payment of a specific fine for the Green Fund. To see the full picture here, it is important to understand how the Green Fund works. A set of Laws in this period, including the Law of the Medium Term Fiscal Strategy (Article 39 Law 4024/2011) which is based on Memorandum of Understanding, indicate the distribution of Fund's resources, according to which a large proportion of the resources are allocated to cover state needs. Today, only 2.5% of the available resources of the Green Fund is directed to environmental projects, including operational costs, and 97.5% of the resources goes to the state budget, which is the main debt repayment tank.

Therefore, those laws set up a mechanism for collecting resources to repay the Greek debt. Those laws concern many citizens with socially heterogeneous characteristics. It is known that the illegal and informal construction in Greece is not only a "privilege" of upper class, but the main type of housing of wider low- middle classes, which finally replaced a state social policy residence (Mantouvalou, M. Balla, E. Vatavali, F: 2007). The incrimination of

this type of building is a piece of the vicious circle that conserves mechanisms of the state absence, and the expansion of illegal construction in Greece.

3.5 New Building Regulations and Energy Saving Laws

Not far from the spirit of the above legislation concerning the emphasis on environmentally friendly construction, a new building code (Law 4067/2012) is adopted. The Law replaces the former Regulation of 1985 and updates the terms and restrictions for any construction. The new building code introduces a noticeable innovation in the legal way of constructing by creating incentives to increase the coefficient of contraction, in return for the reduction of the permissible coverage factor or the minimization of energy consumption of the building. Consolidating land, green roofs, special building insulation and double energy shells constitute a part of the list of the incentives.

Alongside, a set of Laws come to the forefront of the building regulations, concerning the improvement of energy efficiency, energy saving and environmental protection (Law 5825/2010, Law 4122/2013, Presidential Decree 100/2010). This group of legislation defines the minimum requirements for the energy efficiency in buildings, the procedure for carrying out energy audits of buildings, etc. According to the new status, every new building must be harmonized with the new energy requirements, while older buildings must be evaluated for their energy consumption.

In this group of laws, habitat is perceived as a dimensioned building and gets a material substance in the frame of a mathematical code. Once more, the environmental factor as a building term is upgraded, forcing the owners to improve the energy efficiency of their buildings. Habitat becomes a tool to stimulate the market in the construction and the real estate sector. As for the bonus in the coefficient of contraction by consolidating land, it is obvious that the legislation addressed in residence areas with high densities and fragmented small property, confirming the economy turn in a larger scale. Unlike the former law of 1985, the new Law makes small property holders lose their agency as key actors in market's movement, a status which follows the new financial landscape of Greece.

The Laws that put habitat in evaluation mechanism according to their energy efficiency express the importance to incorporate the habitat into the national plans about the strategy for the energy economy, and into EU environmental directives. It is clear that habitat becomes the field of implementation of European policy regarding energy and a promising tool to actuate the Greek market. Indicative of this direction is the widespread implementation of the NSRF programs, which, based on the above legislation, subsidized energy efficiency measures in buildings, with the aim of reducing energy needs. After all, the absence of any social policy replaces the activity of banks, which are the main subject of implementation and approval of these programs.

4. GENERAL CONCLUSIONS

The above analysis gives us the opportunity to conclude that habitat appears, in the legal discourse reviewed, with varied forms, notions and characteristics, in the above different groups of laws. Trying to explore potential answers to the central question posed, concerning the main aspects, the key-actors and the main changes related to habitat issues, we would briefly outline as below:

4.1 The main aspects of habitat's notion

- Economic aspect: Habitat is a Financial Product, an Economic Indicator, Property, Investment, a Tool to stimulate the market in the construction and real estate sector, a Mean of overcoming market's stagnation, Field of taxation, penalization and implementation of fines.

- Material aspect: Habitat is perceived as having material substance. It is a Building which can be dimensioned and described by regulations as well as evaluated for its energy efficiency. It is also a Construction which can be distinguished in illegal and legal, environmentally friendly or not.
- Political aspect: Habitat is perceived as a Field of implementation and (re)production of urban policies, a Field of implementation of European directives, a Mean of debt's repayment and a Mean of privatizing the public debt.

4.2 The key -actors in habitat issues

Between all the actors involved, banks have thoroughly increased their importance and their power to intervene in habitat issues. Given the long-term absence of the Greek State in housing policies, banks gain significant control over the access to housing, as main actors in the process of foreclosures and as (non) providers of mortgage loans. Furthermore, their role is extended because they are responsible for the management of the European funds related to the improvement of the energy efficiency of the building.

- Apart from banks, the role of distressed and real-estate international funds is of crucial importance as they are the key-leaders of the new market of red loans. Besides, the new profile of dynamic investors is designated by those who hold large amounts of capital. Real estate institutions and big construction companies seem to be the only capable to manage big scale projects.
- Small scale ownership, although existent, is not mentioned.

4.3 Changes in urban policy are indicated according to the changes of its legislative framework

Taken advantage of the status of exemption and emergency which is established in the wider political situation of the country, the above legislation launched a few new elements which are related to new aspects of urban policy. It is the first time that:

- habitat is transformed into a source for the debt repayment.
- the access to habitat is linked to the access to insurance
- laws regarding environmental requirements on constructions are linked to the appearance of green enterprise as a solution to way out of market's stagnation
- residence foreclosures are legislated.

Apart from the introduction of new elements into the produced legislation, there are some points, worth mentioning, which intensify already existing political orientations, such as:

- the change of economic interests into the large scale
- the increase of habitat's dependence on banks
- the increase of taxation
- the extended privatization planning as an integral part of market's movement

Although impossible to unfold explicitly the dynamism occurred in the period under study, we can argue that the housing issues have reemerged in the political agenda. If the urban policies and orientations, reflected on the legal discourse reviewed, are judged in relation to their actual objectives and social functionalities, we may argue that the orientation chosen is opposing to the social needs created in the context of the economic crisis. There are no measures undertaken or even reference to unemployed and homeless people, on the legal

discourse reviewed, despite their increased numbers. There is deafening silence about housing needs and about the answers and claims put forward by related social or political collectivities (housing oversupply might be a partial answer on homelessness). On the contrary, the State undertakes and implements the required institutional measures, not only on fiscal issues but also on all aspects of urban policy including habitat issues and consequently leads to the deepen of the social inequalities. The abolition of the Workers' Housing Organization according to the second Memorandum (Law 4046/2012) is therefore indicative. Last but not least, we observe a systematic promotion of large-scale capital investments in an urban economy that was traditionally characterized by small scale ownership, self-financing practices and land fragmentation.

REFERENCES

- Brenner, N. Theodore, N. (2002). Cities and the Geographies of “Actually Existing Neoliberalism”, *Antipode*, vol. 34, issue 3, pp. 349-379.
- Brindman, T. (2014). Overview on Laclau and Mouffe in CMS, *Critical Management*.
- Van Dijk, T. (1993). Principles of Critical Discourse Analysis, pp. 352-371.
- Fairclough, N. (2005). Critical discourse analysis in transdisciplinary research, hosted in *A new agenda in (critical) discourse analysis* Wodak, R. Chilton, P., Amsterdam, pp. 53-70.
- Hadjimichalis, C. (2014). *Crisis and land dispossession*, Athens: ΚΨΜ.
- Jacobs, K. (2006). Discourse Analysis and its Utility for Urban Policy Research, *Urban Policy and Research*, vol.24, issue 1, pp.39-52.
- Jorgensen, M. Philips, L. (2002), *Discourse Analysis as Theory and Method*, Los Angeles: Sage publications.
- Leontidou, L. (1990). *The Mediterranean city in transition – social change and urban development*. Cambridge: Cambridge University Press.
- Mantouvalou, M. Balla, E. Vatavali, F. (2007). *Housing production, ownership and globalization: social aspects of changes in Greece and Albania*. Crete, Seminars of the Aegean.
- Wodak, R. Meyer, M. (2009). *Methods of critical discourse analysis*, Los Angeles: Sage publications.