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URBAN PLANNING AND LAND SHORTCOMING IN MOROCCO:

Aspects of injustice and perspectives

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Urban planning and land shortcoming in Morocco: Aspects of injustice and perspectives

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Abstract

Urban planning tools in Morocco are a source of land injustice. Urban planning documents continue to reflect a prescriptive and normative urbanism based on a functionalist logic of equipment distribution and zoning, constantly generating spatial divisions and correlative social segregations. Thus, the distribution of the surplus value deriving from these urban planning tools generates a complex situation between rich and impoverished landowners. This abusive distribution of rights and burdens that urban planning documents produce gives rise to a situation of social tensions and disparities. Reconciling urban planning and land justice is a difficult mission. This leads us to support the need of introducing corrective mechanisms to mitigate the effects of injustice. Land inequity is a source of social injustice for those who have suffered the consequences of prejudicial planning. The success of any development project, consistent with the overall project of society, remains dependent on the elimination of reluctance and on the convergence of social perceptions about space to improve collectively production and to purify common goods. A priori, urban planning and the land issue reflect an urban and land governance exercise, a process and a process rather than a formula to guarantee the result. Whatever the pedagogical rigor followed, no one can claim the absolute rationality of quantification, sizing and spatialization of urban servitudes because the reflection is engaged in a hypothetical field. The act of planning cannot be an expression of a socio-economic optimum shared by all actors, although efforts are made to "democratize" the decision-making process. However, land studies are often little explored, diluted or abandoned in the process of developing a planning document. Land is rarely explored, while it is a factor of revitalization of urban life, when it is asked to identify the land problems hindering the mobilization of land to urbanize, to inventory properties under different legal status, to sketch the situation of the land market and to define the means likely to remedy the constraints imposed on it. As a result, the mess in implementing planning documents is great. The rate of achievement of public facilities, green spaces and roads provided in urban planning documents is generally below 15%. The central problematic of this idea is essentially to interpret the tool that legislates the setting of easements in the urban planning system, which leads to the formulation of the following question: With what principles and rules of urban planning can we ensure socio-spatial regulation and land justice? The objective is to highlight the aspects of land injustices generated by urban planning documents, to assess the legal provisions governing the interaction between urban planning and land and to innovate principles, rules and mechanisms that can weaken forms of land injustices. Modern management requires ongoing monitoring that promotes the availability at any time of reliable, comprehensive, and aggregated information to facilitate the evolution of indicators for evaluating efforts, results, impacts. This essay follows a three-pronged framework: the first focuses on revealing the scope and limits of the normative and legal framework for urban planning. The second aims to highlight the forms of land injustice arising from urban plans. As for the third axis, it focuses on the principles, rules and prospects for a possible renewal in this area.

Key words: *Planning, urban planning, land, justice, injustice, added value, financing.*

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1. Introduction

The scale of the urban phenomenon in Morocco is enormous. The country has undergone a steady increase in the growth of its urban population, especially since the middle of the twentieth century. From less than 8% at the beginning of the century, the rate of urbanization rose to 29.2% in 1960, to 51.3% in 1994, 55.1% in 2004 and 60.3% in 2014. It is expected to reach 67.8% in 2030 and 73.6% by 2050. The urban population has increased six-fold (6) since 1960 and forty-six (46) in just over a century, from 440,000 inhabitants around 1900 to 20.4 million in 2014. The urban population, distributed over 278 cities and 74 urban centers, will probably exceed 26 million and 32 million inhabitants respectively by 2030 and 2050.¹

These data call for a coherent urban planning, able to regulate urban problems and to conceive the future of cities. This planning is done by using several technical means, including the Master Plan of Urban Development, the Zoning Plan and the Development Plan². These diagrams and plans are tools of intervention and regulation; they constitute decisive instruments of production, concentration and management of interests and wealth.

These tools combine several parameters, mainly land; while often the land issue is not sufficiently investigated in the design of urban planning documents. Neither land surveys, nor processes of mobilization of land status, nor parcelled states, systematically preceded urban planning actions. However, such physical and socio-economic data are necessary both at the level of territorial diagnosis and at the level of future projections of urban space.

Yet land is a major socio-economic and political issue. The land issue in Morocco refers to a composite and complex problem. Beyond the duality of land tenure³ and the multiplicity of land status⁴, this problematic arises in terms of injustices stemming from urban planning, obsession with land, dysfunction of the land market, excessive fragmentation, the weakness of the legal-administrative and governance system.

One of the major aspects of the aforementioned injustices lies in the distribution of the surplus value deriving from these urban planning tools, which generates a complex situation between rich and impoverished landlords. This abusive distribution of rights and charges that urban planning documents produce gives rise to a situation of social tensions and disparities.

Urban and land dynamics interact with each other. Planning for land ownership does not lead to overall agreement. It cannot be the expression of a socio-economic optimum shared by all the Stakeholders. However, the corrective initiatives and the elements of hope are not lacking; draft legal texts relating to town planning denote a public awareness of the need to reduce land injustices through the tools of urban planning.

This reflection revolves around three axes: the first focuses on highlighting the logic of urban planning and land allocation, which leads to unveiling the scope and limits of the normative and legal framework on the system planning. The second aims to highlight the aspects and effects of land injustices resulting

¹ http://www.hcp.ma/Population-du-Maroc-par-annee-civile-en-milliers-et-au-milieu-de-l-annee-par-milieu-de-residence-1960-2050_a677.html

See also: Economic and Social Economic Council, Morocco: Making the transition to sustainable cities, Self-referral report, 2017, p.42.

in <http://www.ces.ma/Documents/PDF/Auto-sais/2017/as32-2017-sustainable-cities/Rp-AS32-VF.pdf>

² Law No. 12-90 on town planning

³ Land tenure in Morocco is characterized by the existence of two tenure regimes, products of a long evolution of Moroccan land law. This duality is due to the coexistence of a traditional right and the modern land registration law.

⁴ There are many land status, namely: State lands, Habous, collective, Guich and private properties.

from urban planning. As for the third axis, it focuses on corrective actions in the form of legal readjustment, principles, rules and prospects for a possible renewal in this domain.

2. Logics of urban planning and land use in Morocco

The analysis of the regulatory framework governing urban planning in Morocco reveals the principles and foundations that underlie the rule of law. This latter is a production of the colonial period and a palliative during independence. It is a functionalist urbanism that cares little about land data.

2.1 Logics and references of urban planning:

Since urbanism is a tool of domination, the colonial power introduced in 1912 a regulation to control and reorient the urban organization to extend its hold on space and society. The Planning Act of 1914⁵ was the basic instrument for a policy of order and security. The national urban space was forced to turn its back on local models and move towards imposed urbanism, strictly regulatory, normative and mainly secure. The dahir of July 30, 1952 relating to town planning has inserted a logic of continuity. It adopted the same provisions and principles of conception and organization of the urban space of the 1914 text. After some attempts to elaborate a global legislation opting for a profound overhaul of the principles and instruments of town planning, the public authorities abandoned the major global projects and proceeded with fragmentary modifications of the text in force. The current law 12-90 on town planning, promulgated by the Dahir of 17 June 1992, renews most of the legislative texts that preceded it. It contains the same logic, principles and tools of colonial urbanism.

In addition, Law 12-90 provides the Master Plan of Urban Planning as a major tool of urban planning to coordinate the programs of the various actors in the territory to which it applies. This scheme is designed for a duration of 25 years. It defines the main lines of urban development and the rules of land use, as it draws up a schedule of the main priority development actions. This document is a scoping tool for other planning documents; which must be established in accordance with the objectives and orientations defined by the master plan.

The law in force defines the zoning plan as a median urban planning document that lies between the Master Plan of Urban Development and the development plan. This plan makes it possible to preserve the orientations of the master plan, by taking conservatory measures necessary for the preparation of the development plan. The zoning plan has effects for two years.

The Development Plan remains the most important tool among the recurrent measures in the design and organization of urban space. It is the instrument that transforms the orientations of the Master Plan, when it exists, into regulations opposable to the administration and to third parties⁶. The development plan is drawn up even in the absence of any scoping document to constitute the regulatory system that defines land use, easements, the road network, the boundaries of green spaces, the sites reserved for public facilities and general interest ones, etc.

It should be noted that there is another urban planning document, called Plan for Rural Agglomerations, governed by the Dahir of 25 June 1960, which seeks to organize rural nucleus and guide their extensions. In addition, the usual planning documents continue to reflect a prescriptive and normative planning without really worrying about the land data and the plot plan. The logic underlying the design of such documents is fundamentally functionalistic of facilities distribution and zoning. This logic continues to generate inequalities, spatial divisions and social distances.

Functionalism refers to the Athens Charter of 1933⁷; it is based on "a conception of the human being, as universal type, identical in all times and in all places"⁸. This model is designed to satisfy the typical, essentially material and quantifiable needs of this human prototype. This ideology emphasizes four major functions of Man, namely: to live, work, move, and entertain. These functions restore the major human activities. Their spatial translation provokes the use of zoning as an unavoidable technique in

⁵ The law of 1914 relating to the alignments, plans of development and extension of the cities, easements and taxes of road taxes.

⁶ Articles 11 and 27 of the law 12-90 on town planning.

⁷ The Athens Charter is the manifesto of the IVth International Congress of Modern Architecture held in 1933 in Athens. The theme of this congress was "the functional city". This charter is established in 95 points relating to the planning and construction of cities.

⁸ Pierre Merlin and François Choay: Dictionary of urban planning and development, PUF, 2005, p.721.

urban planning. The geometric design of urban forms of symmetry and alignment, prototypical buildings, and the distribution of urban functions through zoning are the key features of this urban planning model.

Functionalist conception has long been established as an international model; it has dominated urban planning for many decades. If this current falls into disuse since the 1970s, it continues to constitute a recipe to consume in the countries of the South. In Morocco, it retains its hegemonic character from the beginning of the last century, whereas its principles can not guarantee territorial coherence and social cohesion, in view of the profound changes that are altering the contemporary city.

With regard to the planning of urban facilities, needs in this domain are estimated, quantified and spatialised on the basis of an urban facilities standards manual adopted in 2005. This manual has recently been repealed by the reference standard for facilities of common interest disclosed in 2018⁹. Each population threshold or spatial posture creates a need for collective facilities. This logic is based on a conception of the human individual as the standard and identical type in all regions. It would be difficult at present to admit the existence of the standard needs of a standard citizen or a standardized population. The implication linking demographic data, the quantification of needs on the basis of predefined grids, the distribution of the zoning and facilities are compatible with the functionalist logic.

The urban facilities programming should observe multiple logics and criteria relating to the land frame, the situation, the density, the typology of the habitat, the socio-economic characteristics of the inhabitants, etc.

2.2 Urban planning and land use:

Fluctuations in land use depend on its use, and in function of the state of the premises and its destination in application of a planning document producing legal effects. The market value of a lot is shifting; it is modulated by urban planning and changes in the land market. Land, spatial and economic dynamics are in perpetual interaction.

The planning document defines two coefficients, namely:

- The Coefficient of Land Use which allows to frame the built density of a plot. It determines the ratio of the cumulative area of the floors, counted hors d'oeuvre, to the total surface of the plot.
- The Soil Utilization Coefficient that determines the built area on the soil in relation to the total surface of the plot.

The two coefficients determine the ceilings to be respected for the rights-of-way and the heights of the constructions. They largely influence the market value of a lot. The parcel as raw material can be valued or depreciated. It can be frozen as it can be transformed from a bare plot to a built or developed unit.

In addition to the rule of supply and demand, the changes in question depend on political issues, the economic situation, the plot location with regard to urban planning documents, connection to roads and various networks, availability or not of public and socio-collective facilities, etc.

The urban and peri-urban soil is assessed in relation to the will of the public authorities, the provisions of urban planning and spatial and socio-economic dynamics. The rules here are complex. The relationship between urban planning and land is neither totally causal nor subsequent, it is rather interactional.

The act of urban planning is of great importance. For it to be rational, it must be based on fine sectoral studies. However, land studies are often little explored, diluted or abandoned in the process of drawing up an urban planning document. It is inconceivable to limit oneself to a simplistic game based on the population growth rates to be extended in the future, leading to projections over a given time horizon.

Land is rarely explored, while it is a factor of revitalization of urban life. It is necessary to identify the land problems hindering the mobilization of the lands to be urbanized, to inventory the properties belonging to the various legal statutes, to sketch the situation of the land market and to define the means likely to remedy the constraints which are imposed there.

⁹ A manual of urban norms for facilities was drawn up by the ministerial department for housing and urban planning in June 2005. This manual is repealed by the programming reference framework for public and private facilities of common interest which has been established in 2016 and popularized by the Ministerial circular No. 1606 of 15 February 2018.

The waste in terms of materialization of facilities declared of public utility is great. The rate of implementation of public facilities, green spaces and roads provided in urban planning documents is generally below 20% at the national level.

It is imperative to interpret the system that determines the setting of easements in the urban planning system to meet the needs of urbanization and ensure land justice.

The dilemma is that even if one optimizes the needs, one makes a lucid diagnosis and one masters the land information, the city is generally insolvent and does not control his land, in the absence of legal, institutional and financial means resulting from the land policies and urbanism.

The multiplicity of land status impedes the integration of significant land potential in the process of economic and social development. In urban and suburban areas, there are 518,000 ha of private state land, 300,000 ha of collective land, 20,000 ha of habous land¹⁰. In addition, land is excessively expensive¹¹ and continues to lead to increased costs for public finances, at a time when the need for urbanized land is growing.

The area of the new urbanization areas provided for by the planning documents exceeds 70,000 ha. Overall needs in urban areas were estimated at nearly 118,000 ha during [2014-2034], at a rate of 5900 ha per year, with an annual increase of 28% compared to the needs of [2004-2014].

Estimation of land needs in cities (in ha)

Need	2004-2014	2014-2034
Annual need for land	4 200	5 300
Annual requirement for economic activities	400	600
Total annual requirements	4 600	5 900
Total needs period	46000	118 000

Source: Office of the High Commissioner for Planning, 2016

Urban planning consists of assessing the needs in terms of perimeters to open to urbanization and areas to be dedicated to public facilities. Thus, it is expected to provide new urbanization areas and locations to be reserved for common interest facilities. The programming of these assignments must be fair and measured. It must not be oversized or undersized. But, this exercise should not be reduced to a work of spatialization of zoning and facilities distribution according to discretionary and unfair practices. It would be absurd to claim that urban planning documents are one and the same, reflecting the same deficiencies and torturously exploiting the principle of public interest.

It is inconceivable to play only the card of the general interest in a juridico-administrative environment devoid of tools likely to ensure the justice land. The common interest can only be a compromise between private and societal interest, between order and disorder, the ephemeral and the durable, the short term and the long term.

The rule of equity in land is decisive. In fact, land use is highly sensitive to issues related to land ownership. The rule of solidarity of landowners in the realization of roads, facilities and green spaces is crucial. Neither the welfare state nor the state gendarme is claimed on this scale, it is rather the legitimate and regulating state, guarantee of equalities and societal values, which is advocated.

The planning document is a reflection of an urban policy and an alleged intellectual work. In the absence of required subtlety, this plan is similar to a design arbitrarily affecting the land.

3. Aspects and effects of land injustices:

The aspects of land injustices generated by urban planning tools are manifold. They are mainly related to zoning and the declaration of public utility. The effects on individuals and on society are not to be demonstrated.

¹⁰ Ministry of Town Planning and Regional Planning, Direction of the Spatial Planning: Study relative to the elaboration of the National Strategy of Land Management, territorial diagnosis, 2016, p.245.

¹¹ The proportion of land varies between 40% and 60% for hotel projects and between 10% and 50% in the industrial sector. This charge constitutes in the real estate projects 30% to 60% of the full cost of the investment, whereas it represents only 15 to 30% of the total cost of housing in France, 13% in Canada, 30% to 40% in Turkey and 15% in Tunisia. Morocco is among the countries where land is expensive. See Ministry of Town Planning and Regional Planning, Direction of the Spatial Planning: Study relative to the elaboration of the National Strategy of Land Management, territorial diagnosis, 2016, p.96.

3.1 Aspects of land injustices:

Urban planning tools in Morocco are a source of land injustice. Urban planning documents constantly generate spatial divisions and correlative social segregations. Among the glaring dysfunctions, it is necessary to mention the land injustice generated by the urban planning documents and the incapacity of the public authorities to compensate the rights holders or to release in time the places reserved for the public facilities in application of these plans.

The usual methods of development and urban planning give rise to unequal situations, between owners enriched by a zoning allowing the construction of multi-level buildings and owners "sanctioned" by zoning little or worthless. We are referring here to areas of collective housing facing areas of very low density or not aedificandi. No justification can motivate the zoning, and its spatial distribution, as it is enacted by the planning documents¹².

The planning provisions restrict the exploitation of land ownership. The rules of land use and the rules applicable to the construction, in particular the minimum or maximum heights of the building, the urban forms, the conditions of establishment of the buildings, the relation between the building surface and the total surface of the ground, influence positively or negatively the values of real estate.

The usefulness of a system of compensation of capital gains and losses of urbanization is manifest to reduce the inequalities produced by planning documents. The injustice is obvious in the absence of means of regulation or reconciliation between generated capital gains and losses created. The planning system needs such means to make the planning document fair and shared by all stakeholders including landowners.

Similarly, the financing of the city is not provided by the city. The city produces wealth and remains poor¹³; it does not capture a part of the pecuniary surplus value in case of changing the zoning or land use rules for the benefit of a parcel. If land and tax fairness are to be guaranteed, the private interest must not override the Community interest and vice versa.

If the state does not have financial resources to cover the costs of urbanization, the financing of the city must be guaranteed by the city itself. In the event of surplus-value generated by urban planning rules, it is necessary to target the capture of a part of this pecuniary surplus value following a legal-fiscal framework reflecting land justice.

The principle of partial recovery of investment costs following the construction of infrastructure or facilities financed by the city is completely legitimate. The municipality sets up roads, sanitation networks, transport facilities, etc. but generally it does not take advantage of the resulting capital gains. In addition, land injustice occurs through the declaration of public utility. Urban planning documents produce legal effects and define the places reserved for green spaces, roads and public facilities inherent to city life.

The declaration of public utility emanates from the development plan, the rural agglomeration plan and the alignment decisions¹⁴. It should be noted, for example, that the approval text of the development plan is a declaration of public utility for the operations necessary for the construction of public facilities, roads, green spaces, restructuring and renovating areas defined by this document. This declaration of public utility lasts 10 years from the date of approval of the Development Plan. During this period, the lands concerned by the declaration of public utility are preserved. No construction likely to hinder the realization of the facilities can be authorized.

By way of derogation from this rule, the lands reserved for public utility assignments may provisionally receive a destination other than that in the development plan, after authorization. The latter is issued only if the temporary assignment does not compromise the realization of the facility provided for in the plan. In all cases the owner is required to restore the premises in condition at the time of the realization of said facility.

¹² Ministry of Housing, Town Planning and Spatial Planning, Urban Planning Department (2008): Evaluation of the Implementation of Urban Planning Documents of the Eastern Region- Report of synthesis, in <http://www.muat.gov.ma/doc/doc11.pdf>

¹³ Economic, Social and Environmental Council, Morocco: Making a Successful Transition to Sustainable Cities, Self-referral Report, 2017, p.23.

¹⁴ The alignment decision is a legal act made by the president of the municipal council after deliberation. It aims at the creation of the ways, places and communal public car parks, the modification of their route or their width or their total or partial suppression. See Article 31 of Law 12-90 on town planning.

The declaration of public utility constitutes a very strong legal effect, since it is an essential stage in the procedure of expropriation of land property for the benefit of the State. The question of land injustice arises when one makes this declaration without completing the entire process of expropriation and compensation of the rights holders. It is often difficult to reconcile the common interest with the special interest. The trade-offs between normative town planning, the surge of land and the insolvency of the public authorities constitute complex equations.

If it is legitimate to resort to a legal procedure to expropriate land required for facilities of general interest, it is neither logical nor just to declare public utility on a plot and freeze it for ten years without that the competent public authorities proceed to its acquisition, in view of their financial incapacity. The owners can not return to the disposition of their lands, and use them according to the assignment of the surrounding area, only after ten years.

The easements established by urban planning documents seem to be prejudicial to the right of property. Can we argue that the freezing of land for ten years following the easements of town planning does not entitle to compensation. Even though this issue is controversial, the principle of non-compensation predominates. Under law 12-90 on urban planning¹⁵, the urbanism easements do not imply any compensation except if it results from these easements an infringement with acquired rights, or a modification of the previous state of the premises determining a certain, material and direct damage.

The declaration of public utility is emptied of its essence, or even deviated from its logic if it does not lead to the expropriation of the designated lands and the implementation of the provisions of the planning document.

3.2 Effects of land injustices:

Zoning, the freezing of land reserved for facilities for 10 years and the principle of compensation or non-compensation related to it set a theme of great sensitivity. This question refers to the multiple interests and issues related to land ownership knowing that no one can be arbitrarily deprived of his property according to Article 35 of the Constitution of Morocco of 2011 and Article 17 of the Universal Declaration of Human Rights adopted by the General Assembly on December 10, 1948.

The property right is thus guaranteed. The law can limit its extent and exercise if the requirements of the economic and social development of the nation dictate the necessity. Expropriation may be practised only in the case and in the manner prescribed by the law.

However, the zoning, the land use and occupancy coefficients and the declaration of public utility relating to facilities of general interest give rise to negative perceptions among landowners because of the injustices made explicit above.

The provisions of the planning document constitute restrictions on the exercise of the right of ownership. Landowners are forced to accept the rules prescribed by urban planning tools. Beyond the restrictions limiting the free disposal vis-à-vis the land property, land use is a major factor in determining the property market value. The effect of zoning is reflected in land prices. The value of the property can increase tenfold, drop or remain stable, depending on the land use and the rules applicable to the building. "The social consequences produced seem alarming between owners with advantageous provisions and others receiving, on the contrary, unfavorable or even binding provisions, which radically affect the appreciation of the land in the land market."¹⁶

The extension of urban perimeters and development and the opening of new areas to urbanization¹⁷ imply changes of destination and land use. They influence favorably or unfavorably land and real estate values. The integration of land in the urban perimeter, or the change in their uses, generates capital gains that give huge profits to beneficiary owners who enrich themselves without devoting any effort.

The planning document may, through its regulations and rules, produce capital gains or losses. It is an instrument of intervention and regulation or a decisive means of production, concentration and management of interests and wealth.

¹⁵ See article 84 of the law 12-90 on town planning.

¹⁶ Vincent Renard, (1980) : Urban planning and land tenure, Les Presses Universitaires de France, France, p.69.

¹⁷As is the case of several Moroccan cities: The urban perimeter of the city of Fes increased from 3,870 ha in 1960 to 13,000 ha in 2012. It is the same for the city of Marrakech, whose perimeter has increased from 2,000 ha in 1970 to 18,100 ha in 2004. Moreover, the area of open areas to urbanization between 2000-2010 reached 70 000 ha. See: Ministry of Urban Planning and Development, Department of Land Planning: Study on the development of the National Strategy for Land Management, territorial diagnosis, 2016, pp.114 -126.

The urban planning system generates a complex situation, even a social malaise. It becomes synonymous with abuse when it favors some and disadvantages others. The misuse of rights and burdens, provided by an urban planning document, limits the credibility of planning and gives rise to social tensions and disparities.

Urban planning leading to urban margins and favored spaces in terms of urban facilities and symbols leads to disparate and iniquitous usage values. The distribution of the constituents of the city must "extend to the collective use value of the urban space, understood not only as access to services, but as the enjoyment of its own practical and symbolic qualities".¹⁸

Inequity in landowners is a source of social injustice in those who have suffered the consequences of prejudicial planning. The success of any development project that is compatible with the overall project of society remains dependent on the elimination of reluctance and the convergence of social perceptions about space. The latter must be produced collectively and sanctified as a common good.

4. Corrective actions and elements of outlook

Reconciling urban planning and land justice is a difficult exercise. This leads us to support the need to introduce corrective actions and measures to mitigate the effects of injustice. Public initiatives attempt to innovate principles, rules and mechanisms that can fade forms of land injustice. There is the antinomy of ambition and procrastination, while the catching up and anticipation on such a question require public policies in matters of urban planning and land targeting readjustments and deep reforms.

4.1. Corrective actions in favor of land justice

Urban planning and the land issue reflect an exercise in both urban and land governance, a process rather than a recipe for ensuring results. Whatever the pedagogical rigor followed, no one can claim the absolute rationality of quantification, sizing and spatialization of urban servitudes because the reflection engages in a hypothetical field. The act of planning can not be the expression of a socio-economic optimum shared by all stakeholders, although efforts are made to "democratize" the decision-making process.

The prevarications in land matters are multiple. At least three major difficulties hinder the production of legal texts in the field of land. First, there is the difficulty of firmly adopting political choices. There are often repeated hesitations in land matters when it comes to making political decisions because of social, cultural and economic issues. Then there is the difficulty of defining clear and precise objectives. Several objectives are intertwined and opposed, such as land equity, social peace, legal certainty and the search for economic efficiency. Finally, the difficulty of arbitrating between diverse and divergent interests can not be overlooked.

It is not easy to achieve three essential objectives, namely the legal certainty of land ownership, the economic efficiency of land mobilization and the pursuit of land equity and social peace. It is not easy either to arbitrate between the rivalry of interests. Arbitration is a difficult undertaking because it often involves balancing and reconciling the common interest with the personal interest and between the moral and material interests of both individuals, communities and competing professions.

In the field of land, Morocco knows a situation of lethargy. Public action is incoherent, given the pre-eminence of sectoral land policies. No one can deny the fragmentation and incoherence of the institutional system with regard to the control and governance of land, which often causes a phenomenon of dilution of public action. Morocco does not have an institution to produce and manage land information, nor specialized jurisdiction. The creation of a regional land agency is a recurring recommendation, able to blur the lack of governance in this field.

Despite the state's awareness of the need to blur land injustice through the tools of urban planning, structural reforms in the land sector have not yet been possible.

Already part of the current system is not implemented, as examples the contribution to the creation of municipal roads in accordance with Articles 37, 38 and 39 of the Law 12-90¹⁹ or the sharing of surplus

¹⁸ Christian Devillers: Is there a project in the city? In a Jean-Claude Driant (directed by): Habitat and cities, the future at stake, editions harmattan, 2000, p.30.

¹⁹ The owner whose land falls within the rights of way to be created and which will become riparian to its realization, must yield to the commune, the equivalent of a rectangle with a width of 10 m and a length corresponding to the facade of the plot on the way.

value generated by urban planning between the State and landowners as provided for in Article 59 of Law 7-81. This article states that "when the announcement or execution of works or public operations confers on private properties an increase in value greater than 20%, the beneficiaries of this increase are jointly and severally liable to the community concerned an indemnity. The latter is equal to half of the surplus value thus created...".

In the same vein, several mechanisms of land equity are provided for by draft laws. As soon as the so-called Human Settlements Upgrade Bill 42-00 was established, the principle of solidarity between citizens and the sharing of the costs of urbanization among landowners was introduced. The mechanisms of participation in the financing of urbanization in this bill give an answer to the issue of land justice, through the capture of the surplus value of urbanization for financing it. The article 131 of this text introduced a free contribution called "Contribution to the cost of urbanization" due to the buildings as a result of:

- an assignment of a plot encompassed for the first time by an urban planning document, allowing it to receive urban development projects;
- the benefit of a zoning change subsequent to a modification of an urban planning document which has added value to the plot or the building such as the modification of an area assigned to the individual habitat into a multi-level collective housing area;
- the benefit of a derogation from the legislative and regulatory provisions relating to town planning, such as the increase in the density of the population, or of the constructed surface compared to the unbuilt one...

This contribution must be of a financial nature equivalent to the value of 30% of the total area in the first two cases set out in section 131 and the value of 25% of the total area added as a result of the rezoning.

Then the draft law n ° 30-07 entitled as the code of urban planning opted for the introduction of a contribution to the financing of the planning and the urbanization in the same way as the draft law 42-00. This contribution is financial or in kind when it comes to alignment measures to free up public space rights. It is assigned to a special account entitled "National Fund for Financing Urban Development and Urbanization". In addition, this draft code provided for the right of priority for the State, as it introduced the notion of land reserves, and set the means used to achieve them, namely: amicable solution, expropriation and the right of pre-emption.

To avoid the freezing of land for ten years without being able to realize the facilities, the draft code foresees that the owner of a ground concerned by the declaration of public utility to realize of a facility, can request the authorization to carry it out. This can be put into effect after 5 years from the date when the declaration of public utility was made. However, this same project gives full right to the administrations, which incumbent the task of realization of the public facilities, to release the owners of grounds concerned by the declaration of public utility in the case where the public authorities will not be able to acquire said grounds, before the expiry of the 10-year period. To add that this project introduced the notion of urban consolidation, which can be either mandatory or conventional, while indicating its importance in the implementation of urban planning documents.

Unfortunately, the draft urban planning code is currently crumbled into tiny thematic projects. He presented a valuable opportunity to make a significant improvement in the legal framework for urban planning and land development. This project has provided for the primacy of the town planning rule over the provisions governing the land status in case of contradictions.²⁰

As for the draft law on planning documents, it encourages the constitution of land reserves and introduces new logic to master the soil to urbanize. Once the development plan is approved, the land it

²⁰ The ambition seems immoderate when the draft text adopted a broad extension of the concept of public utility, which included concentrated development operations, operational project sectors, the perimeters of new towns, land reserve areas, and the perimeters of urban consolidation. It has been proposed to give the State and its relays the right to appropriate the soil necessary for the realization of large-scale projects. It is, of course, a legal and technical tool for the benefit of a land policy in the service of urban planning that could help the control and mobilization of the soil as well as the regulation of the land market. However, such expanded measures could be a source of social concern and litigation in the absence of the necessary guarantees of a non-abusive administrative practice. For this reason, it is necessary to provide these means of public intervention concomitantly with a favorable socio-administrative environment to which the citizen can confide.

covers is subject to special legal regimes. By way of example, collective lands are no longer subject to the prohibitions provided for by the legislative acts governing them.

Can we add circulars that reflect the state's awareness of the importance and necessity of land equity? Circular No. 6690 of May 2, 2003, attaches importance to the principles of social solidarity and land justice. To do this, we must take into account land status and plot plan in the choice of development options in order to limit the contribution of each property to 30% of its total area in favor of facilities of common interest. According to the same logic, it is necessary to be confined to the main zoning at the time of the design of the urban planning documents and to be limited to the delimitation of the structuring road.²¹

The current system does not lack hopes in view of the aforementioned draft laws and adopted texts such as: the code of habous of 2010, the law 14-07 on the land titling, the code of the real rights of 2011, the new institutional context, the central body for the prevention of corruption, the competition council, the economic, social and environmental council, etc.

4.2.3.2. Elements of perspectives and inflection tracks:

How to reconcile normative urbanism, the dearness of land and the insolvency of public authorities? This is a question that needs to be answered clearly and voluntarily.

Beyond these ambitions and directives explained above, and in addition to the need to share the value-added land, the institution of new resources for the financing of land acquisitions is required. The issue of governance is needed as a method of conduct. The land policy must cover all dimensions and aspects of land, namely the legal-institutional system, land use and exchange values, fiscal mechanisms, contracting ...

Attention must be given not only to the modes of land management but also to the exercise of land governance. Normative, legal, land, fiscal and institutional reforms are needed to provide adequate answers to the issue of land injustice triggered by urban planning.

The international normative system must be a source of inspiration for urban planning and land policies. The goal is to instil urban performance and sustainability methods and approaches. In this context, rationalization is a strategic instrument for implementing good management and urban planning practices. On the occasion of a urban plan, we must not lose sight of this normative reference to better understand the interaction relationships that govern spatial, land, economic and socio-cultural logics. Modern management requires continuous monitoring that promotes the availability at any time of reliable, comprehensive, and aggregated information to facilitate the evolution of indicators for assessing efforts, results and impacts.

The expected renewal is based on the overhaul of the land system and methods of urban planning. Should the latter renew its instruments and frameworks, and rethink the current method of preparing urban plans, in Morocco?

The decisive stake is to build a land policy in harmony with the policies of town planning in order to make land a lever of economic and social development in the city.

The production of the urban soil can not obey either a rational plan or a renewable model. However, to plead in favor of consultation, the co-conception of space and co-responsibility vis-à-vis the urban planning expresses an awareness of land injustices and the risk of socio-spatial segregation due to the fragmentation of the city.

The conscientious design seeks to build the city by the citizens to appease the socio-spatial tensions. To involve landowners and promote use values, it is necessary to rely on the urban landowners' associations²². These groups of owners aim to translate the principle of land equity, through a fair distribution of capital gains. This breakdown takes into account the percentage of area taken from each owner by the opening of the roads, and the added value provided to the remaining parcels by this opening. It is applied to avoid unequal distributions of land surpluses through urban planning. The

²¹ These are the directives highlighted by the circular n ° 19128 dated October 24, 2005 relating to the revision of the contents of the draft plans of development and the procedures of their establishment.

²² These associations are governed by the following texts: the Dahir of November 10, 1917, on the union associations of urban proprietors modified by the dahirs of October 20, 1937 and November 27, 1958; the Dahir of June 10, 1922 on the land registration subject to the Dahir regime of November 10, 1917, on the union associations of urban proprietors; the Dahir of November 17, 1936 relating to the application of the Dahir of November 10, 1917 to certain urban centers and to the suburbs of the cities.

purpose is to mobilize the land in accordance with the provisions of urban planning documents, and to reshape the existing plot to improve the organization and use of land within the scope of development. Emphasis must be placed on land equity as a decisive rule. The rule of solidarity of landowners in the realization of roads, facilities and green spaces is crucial. Should efforts be made to implement the contribution of local residents to the realization of municipal roads in accordance with Articles 37, 38 and 39 of Law 12-90 on town planning; likewise for the sharing of the surplus value generated by urban planning between the State and the landowners as noted in Article 59 of Law No. 7-81.

It is necessary to introduce institutional and legal tools dedicated to the control and management of land, namely regional land agencies, specialized jurisdictions in urban planning and land, a National Council of Geographical and Land Information, Urbanization Financing Funds at the regional level. It would also be relevant to provide legal means of land appropriation by the State and its administrative relays for the constitution of land reserves and the mobilization of sites reserved for facilities of common interest, namely the right of pre-emption.

In this respect, the National Spatial Planning Scheme encourages the distinction and definition of "urban perimeters" and "urban extension zones". This scheme focuses on the land to operate the spatial adjustment required. It opts for the introduction of fiscal and legal measures in favor of a pre-emptive right for the benefit of the community.

The vectors of the rule of law and legal principles are essential for urban planning to be fair or at least optimal. Thus it will be appropriate to devote the primacy of the urban planning rule to the provisions governing the land status, in case of contradictions, in any area covered by an approved urban planning document. We must soften the duality of the legal system of land by integrating the Melk into economic dynamics.

Among the technical means to be used, it is important to make use of multi-criteria modeling in order to optimize soil consumption, the orientation of urbanization, the valorization of land reserves and to ensure socio-spatial regulation.

In conclusion, the relationship between urban planning and land is interactional. Urban planning tools in Morocco are a source of multiple land injustices. These injustices are mainly related to zoning and the declaration of public utility. The effect of zoning affects the price of land, it produces capital gains or losses. The injustices are patent in the absence of means of regulation or reconciliation between generated capital gains and losses created.

Urban planning documents continue to generate socio-spatial segregations. They give rise to unequal situations, between owners enriched by favorable zoning and owners impoverished by unfavorable zoning. The unfair allocation of fees and charges, provided for in an urban planning document, calls into question the credibility of urban planning.

In addition, there is the inability of public authorities to compensate the rights holders or to release in time the spaces reserved for public facilities in application of urban plans. It is unfair to declare public utility on a parcel for ten years without the competent public authorities acquiring it.

The urban planning system generates social malaise. It gives rise to a situation of social tensions and disparities. The utility of a system of compensation for capital gains and losses is evident.

Public initiatives attempt to innovate principles, rules and mechanisms that can fade forms of land injustice. Several mechanisms are provided for in draft laws on land equity and are hopeful. Urban planning must be fair and measured. It is necessary to establish institutional and legal tools dedicated to the control and management of land. The rule of equity in land is decisive. The rule of solidarity of landowners in the realization of roads, equipment and green spaces is crucial.

Corrective measures require public policies on spatial planning, urban planning and land targeting readjustments and deep reforms.

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