Refugees and refugee applicants’ voices in Brazilian cities

Laís Gonzales de Oliveira*

Municipal Attorney of Nuporanga, State of São Paulo, graduated from Law School of Ribeirão Preto/University of São Paulo, Brazil

Abstract

This paper provides an analysis of the struggles faced by refugees and refugee applicants as they seek recognition and the effectiveness of their rights within Brazilian cities, particularly focusing on full political participation at the municipal level. Employing juridical-sociological research methods, including theoretical bibliographical research and critical analysis, it is concluded that the formal recognition of the right to the city holds significant relevance, serving both as a catalyst for the concrete realization of these rights and as a means to affirm the identity of individuals involved. Although the law may result in the maintenance of injustices, the institutionalized means of participation should not be abandoned but reconstructed.

Keywords: Refugee; Citizenship; Right to the city; Political participation; Brazil

1. Introduction

The selection of the subject for this paper stems from a concern regarding the phase that follows the arrival of individuals seeking refuge in Brazil. After studying and analyzing the content, interpretation, and application of the principle of non-refoulement, especially in the face of the imposition of border barriers by States that receive a constant flow of immigrants, the concern has shifted to the phase following the reception of refugee seekers in national territory. This transition brought about a sense of anguish regarding “what happens next?”

Given the dual nature of Brazilian policy for refugees and refugee applicants (Moreira, 2010), it should be noted that Brazil is internationally recognized for the receptiveness of its foreign policy. Data from the National Committee for Refugees (CONARE) reveals that between 2011 and 2021, a total of 297,712 migrants sought asylum in Brazil, resulting in 60,011 formally recognized refugees by the end of 2021. In 2021 alone, 29,107 immigrants applied for asylum in Brazil, marking an increase of 208 requests compared to 2020, when the country received 28,899 requests (Junger et al., 2022). Despite this ease of access to Brazilian territory, a real “barrier” exists for those seeking refuge within the Brazilian State — considering the completeness of the services and opportunities offered — which would be the next phase, the reception of refugees. The structure of Brazilian domestic policy reveals deficiencies in effectively guaranteeing the human rights of these individuals, in general, and consequently, regarding their integration process (Moreira, 2010).
In this sense, considering that individuals seeking refuge are welcomed into a city upon their arrival, ensuring their integration and the realization of their human rights requires that they are assured the full enjoyment and exercise of the right to the city. It should be clarified that according to a systematic interpretation of articles 18, 29, and 30 of the Brazilian 1988 Federal Constitution (Brazil, 1988), the municipality is the smallest federal entity responsible for directly addressing the immediate basic needs of the population through urban management.

For conceptual purposes, the right to the city corresponds to the right of every inhabitant to participate fully (actively and passively) in urban life (Lefebvre, 2011). This includes being able to enjoy the advantages, opportunities, and services offered by the local urban system, such as housing, transport, work, culture, and leisure, and to participate in the elaboration of urban policies and the construction of the city itself (Lefebvre, 1968 Trindade, 2012).

Nevertheless, it should be noted that the effectiveness of urban public policy for integration often depends on collaboration with the intended group (Moreira, 2010), in this case, refugees and refugee applicants. Without their participation in its elaboration, government policy may prove to be superficial, inadequate, and ineffective in achieving its desired goals. Moreover, the very level of effectiveness of these urban policies can only be assessed by those who use and benefit from them.

Participation in the elaboration, implementation, and monitoring of public policies also requires the recognition of refugees and refugee applicants as (political) subjects of rights, citizens who shape their living environment, protagonists and narrators of their own history (Benjamin, 1994), and individuals who are not subordinate (Bidaseca, 2010). Without this recognition, the simple elaboration of government policies destined for the integration of such a group without any form of (influential) participation being opportune keeps them as objects, distant from the policymakers, which, in turn, distances the latter from the very reality they aim to regulate.

Thus, whether refugees and refugee applicants participate or not in the process of formulation and implementation of municipal public policies aimed at them may interfere, both positively and negatively, with their effective integration into the community. Consequently, ensuring the full realization of their right to the city may be compromised due to the potential inadequacy of government regulations and even their lack of correspondence with the intended reality.

This paper, therefore, delves into the struggles of these individuals for the recognition and effectiveness of their right to the city through full (or broader) political participation within the Brazilian State, specifically in the municipal sphere. It analyses the collective efforts aimed at securing recognition of the aforementioned rights for refugees and refugee applicants, granting them the right to "voice" in the city in which they live.

This study constitutes a legal-sociological investigation (Gustin, 2010) utilizing the theoretical research technique in the bibliographic form (Gil, 2002). It examines the legal aspects of citizenship, political participation, and the right to the city concerning refugees and refugee applicants. Furthermore, it analyzes the concrete realization of these rights and explores the legal phenomenon within the political and sociocultural environment, with a particular focus on the notion of effectiveness between law and society.

In this sense, this paper begins by defining and interconnecting the concepts of city, citizenship, political participation, and right to the city. It also outlines the rights guaranteed to the refugee population by the Brazilian legal system, demonstrating the qualification of this population as citizens. Subsequently, it addresses the question of whether the refugee and refugee applicant movement can be classified as a social movement and explores the search for recognition as individuals entitled to the right to the city. Finally, it analyzes the institutionalized law itself as a paradox of subordination and emancipation of these people within the Brazilian sociopolitical and legal system.

2. Contextualizing the city, citizenship, political participation, and the right to the city of refugees in Brazil

When individuals seeking refuge are received, they find welcome within a city, as municipalities are the lowest federative entities recognized by the 1988 Federal Constitution. Therefore, to ensure the effective reception of refugees and refugee applicants who have now become residents of these cities while also upholding their citizenship rights and dignity, it is imperative to secure their inherent right to inhabit urban spaces fully. This encompasses the right to actively engage in city life, with access to all essential services, opportunities, and advantages that are vital for a dignified existence within the urban environment. Moreover, they should have the opportunity to participate in the formulation, execution, and oversight of urban policies.

As Sister Milesi (2008) and Moreira (2014) accurately assert that the concept of welcoming goes beyond mere hospitality. It implies the assurance of equal opportunities and access to essential public services, housing, labor
space, and political rights. Seeking refuge, in essence, is an endeavor to attain the conditions necessary to realize fundamental rights while preserving one's dignity and humanity. Consequently, welcoming encompasses the crucial task of safeguarding the refugee population's effective right to the city.

To grasp the concept of the “right to the city,” it is essential to underscore that the term “city” carries legal, political, and sociological significance (Filho, 2009). The city unveils itself as a structured framework encompassing various daily life activities, from basic existence to the intricate dynamics of human interaction. Within this urban milieu, individuals cultivate and sustain the material and psychosocial conditions necessary for their existence (Harvey, 2012; Instituto Paulo Freire and Prefeitura Municipal de São Paulo, 2015).

The city embodies a complex network of material, legal, social, and political interactions that coexist with diversity and sometimes conflict. It serves as a convergence point for a multitude of individuals, where actions and relationships intersect within territorial and administrative structures, commerce, the social division of labor, and even the urbanization process. These elements collectively shape urban life (Borja & Muxí, 2000; Instituto Paulo Freire and Prefeitura Municipal de São Paulo, 2015) and influence the practice of citizenship. This is because the very essence of citizenship finds its expression in the public space, which is intrinsically linked to the city itself (Borja & Muxí, 2000).

The city, in essence, serves as the arena for the practice of citizenship, as it facilitates the exercise of various aspects of citizenship rights. These encompass elements such as the ability to choose one's work and housing, access to education and basic services, self-governance, and fostering diverse interpersonal relationships (Borja & Muxí, 2000). Through our presence in the city, we engage in all the daily activities that ensure our existence and coexistence within the community. We work, study, and live together; in short, we live (De Oliveira & Carneiro, 2022). This notion of “inhabiting” extends to encompass all actions that involve the exercise of every facet of citizenship — civil, political, and social, as categorized by Marshall (1967) and De Carvalho (2015). This perspective transforms citizenship from being merely a status or qualification bestowed upon individuals into a tool for actively practicing and exercising rights (Isin, 2009).

This is because, as a phenomenon, citizenship proves to be complex and historically constructed (De Carvalho, 2015; Marshall, 1967). It has evolved within the context of the historical phenomenon of the construction of the Nation-State and has materialized through struggles for rights among various groups in a continuous process of formulation and reformulation, from which (new) actors, scales, and places of exercise emerge (Isin, 2009).

From the perspective of Holston (2009; 2015), historical and rooted injustices, often of a structural nature, initially contributed to the formation of a “differentiated citizenship,” which he recognizes as the continuous use of a form of “selective disqualification” based on social distinctions and the conception of rights as privileges granted to specific types of subjects, thus dividing citizens into “classes.” However, in his study on urban peripheries in the global era, including Brazil, the same author also points to the emergence of an “insurgent citizenship.” This form of citizenship arises from the resignification of meanings by new — and different — social subjects who have come to inhabit the urban space. This insurgent citizenship has the potential to destabilize (or at least confront) the then-current differentiated citizenship (Holston, 2009; 2015).

In this sense, Papadopoulos & Tsianos (2013) perceive citizenship as a specific form of governance that regulates the relationship between rights and representation (understood as the qualification of individuals as national citizens). This axiom “rights-representation” represents the basis of modern politics: Rights are considered crucial to creating different segments of citizens and defining who qualifies for these rights, while representation defines who would be “entitled to have rights” and to what “type” of rights one is entitled to. However, these authors argue that cultural identity and collective affections of belonging emerge among mobile or marginalized populations. These factors can create a social subject that has the potential to become a true subject of rights.

In light of this expansive and insurgent perspective, as articulated by Santos (2014), citizenship can be understood as a compilation of board and abstract principles that manifest as a collection of specific and personalized rights. These rights are meant to be acknowledged and affirmed within the context of the prevailing societal norms. Citizenship, functioning as a source of rights, serves as a foundation for respecting each individual and functions akin to a societal “law.” This “law” applies universally, without discrimination, empowering everyone with the necessary “strength” to demand and receive respect in the face of other “forces” (Santos, 2014), such as the infringement of their rights. Consequently, the concept of citizenship encapsulates a set of rights that enables any individual to actively engage in the affairs and governance of the community in which they participate (De Dallari, 2004), a concept often referred to as “citizenship rights.”

Included within this set of rights is the right to political participation, as defined by De Dallari (1992). It is described as the “right-duty” to influence the establishment of rules.
Refugees’ voices in Brazilian cities

for coexistence and community governance decisions, aimed at achieving collective well-being and, at the municipal level, (re)building the city itself and its public policies. Political participation is not reduced to mere indirect and representative (that is, to electoral rights), nor is political manifestation exercised within institutional spaces (such as State councils or committees). Instead, it comprises direct and active forms of participation, often less formalized and external to legal mechanisms (Cantoni, 2016; De Carvalho, 2015; De Dallari, 1992).

Being a citizen, therefore, entails residing within the city and actively engaging with it — embracing the advantages and prospects, it provides while also playing a role in shaping its development. As a consequence, the act of inhabiting the diverse urban landscape connects refugee populations with the established community, granting them the ability to possess, exercise, and relish all the rights associated with urban citizenship (De Oliveira & Carneiro, 2022). Conversely, the right to the city aligns with the right to dwell in urban spaces, which encompasses complete engagement with the city itself (Lefebvre, 2011). This right involves the ability to partake in and relish the benefits, opportunities, and essential services provided within the urban system, all of which are fundamental for a dignified life. These include access to housing, transportation, employment, culture, leisure, and more. Moreover, it extends to active involvement in the formulation of urban policies and the construction of the city itself (Santos, 2014; Trindade, 2012).

This right also entails the imperative of striking a balance between urban development and overall welfare, prioritizing the well-being of the entire community rather than merely benefitting isolated groups (Filho, 2009). It encompasses the right to effective democratic equality of opportunities and dignity within the urban landscape (Borja & Muxi, 2000; De Dallari, 2004). This includes considerations of spatial justice, ensuring democratic access to all areas and environments throughout the city’s territory (Tsavadaroglou, 2020). Consequently, the essence of the right to the city undergoes a transformation with the advent of refugees and refugee applicants, who represent “new” political subjects with their “new” demands for urban rights. These demands are shaped by the unique circumstances of their social vulnerability and living conditions.

Viewed as a fundamental entitlement for all city residents, the right to the city encompasses a spectrum of citizenship rights that are essential for upholding a dignified life within urban environments. Its overarching objective is to ensure the well-being and development of individuals, irrespective of differences, collectively promoting the principles of social justice, full citizenship engagement, participatory democracy, equal dignity amid diversity, political and legal diversity, and ecological equilibrium. These principles align with the general guidelines of urban policy established in Article 2 of Law No. 10,257, dated July 10, 2001 (City Statute) (Brazil, 2001).

Concerning the rights of refugees, it should be noted that the current Brazilian policy for the reception of refugees and refugee applicants formally guarantees the human rights necessary for the preservation and maintenance of their dignified life in Brazilian territory (De Oliveira & Carneiro, 2022). While Law No. 9,474, dated July 22, 1997, defined the mechanisms for implementing the Geneva Convention of 1951 (UN Refugee Statute) in Brazil (1997), Law No. 13,445, dated May 24, 2017, lists the rights and guarantees provided to all migrants in the national territory (Brazil, 2017b), in accordance with the regulations set forth in Federal Decrees No. 9199/2017 (Brazil, 2017a) and No. 9277/2018 (Brazil, 2018), as well as the Normative Resolutions of the National Committee for Refugees (CONARE).

Law No. 9.474/1997 states that formally recognized refugees have the same rights and duties as migrants residing in Brazil, in addition to those stipulated in the 1951 Geneva Convention (Brazil, 1997). However, CONARE has extended the majority of rights guaranteed by Law No. 9.474/1997 to individuals who are still seeking refuge. In addition, Law No. 13,445/2017 establishes that the rights and guarantees provided by the immigration law will be exercised in compliance with the constitutional provisions, regardless of the person’s immigration status. This includes not excluding other rights and guarantees arising from treaties to which Brazil is a signatory (Brazil, 2017a).

It is observed, therefore, that Brazilian legislation guarantees civil, social, cultural, and economic rights and freedoms to the migrant and refugee population, but it lacks express provisions regarding their political rights. However, despite the Federal Constitution of 1998 expressly prohibiting the electoral enlistment of migrants (Brazil, 1988), migratory legislation assures them the rights of assembly for peaceful purposes and of association for lawful purposes, including those of a trade union nature — which also encompasses the formation and composition of civil associations that engage in political participation (De Oliveira & Carneiro, 2022).

Hence, when we view citizenship as a collection of rights associated with full participation, it becomes evident that the concept of citizenship extends to refugees as well. This extension embraces and respects their differences,
while also recognizing their right to engage actively in the decision-making procedures related to the formulation of policies that concern them. In doing so, it acknowledges their role as significant political subjects. As individuals who interact within the Brazilian community, those in a state of refuge are also considered Brazilian citizens (De Oliveira & Carneiro, 2022).

For refugees, achieving effective social, economic, and cultural integration, as well as meaningful interaction, hinges on the elaboration of tailored reception policies. In addition, their incorporation into established public policies plays a pivotal role in fostering social balance in the context of varying degrees of social inequality within the city (Milesi, 2008; Milesi & Carlet, 2012).

However, when we perceive the urban environment as a diverse and dynamic public and political space, where an array of demands and interests converge, and conflict, the effective welcoming of its citizens and the realization of a genuinely democratic and civic city necessitate the active involvement of all individuals in shaping this space. This includes the refugee population (De Oliveira & Carneiro, 2022).

### 3. Social movement(s)

In her study on the categorization of social movements, Gohn (1997) presents the paradigm of new social movements, contrasting them with classical and contemporary theories. According to the author, the term “new” refers to a new classification of social movements in which it is possible to observe several subjects and actors (students, women, Black individuals, homosexuals, transgenders, immigrants, and more). Notable features of these movements include an emphasis on culture, ideology, daily social struggles, solidarity among members of a social group or movement, and the formation of identities without the “old” dispute for state domination — as opposed to the “old” traditional Marxist paradigm, by which social movements were guided by class struggle and the seizure of state power (Gohn, 1997).

This new approach to social movements analyzes culture and ideology without necessarily (and exclusively) linking them to class consciousness. It also eliminates the centrality of a specific, predetermined, and historical subject, viewing politics as part of daily life and even participants in collective actions as social actors, who are analyzed both through their collective actions and the collective identity formed during the process (Gohn, 1997). While collective action is defined as the union of various types of conflict based on the behavior of the actors within a social system, without presenting the factors of collective identity and organization (Melluci, 1995), social movements, on the other hand, are understood as collective action organizations, marked by an internal effort to build a collective identity to pursue a “common good.”

According to Melluci (1995), social movements are comprised of systems of collective action, formed through complex networks connecting various levels and meanings of social action. These movements are often initiated by leaders who possess prior experience, placing more emphasis on the representation of images and ideas than on materialized organization. As a result, social movements produce organizational models similar to associations, which influence institutions and social actors, thereby institutionalizing social practices and changing the cultural language of a certain time (Melluci, 1995).

Thus, not every collective action would constitute a social movement. For instance, an isolated manifestation of people meeting on a specific date does not qualify as a social movement; rather, it represents only a collective action. According to Tilly (1993), to qualify as a social movement, collective action must possess a repertoire, that is, a set of actions, ideas, mechanisms, and strategies that enable confrontation and communication. Examples of such repertoire elements include the creation of associations, manifestations, pamphlets, and more.

Moreover, within the same sense of a social movement as a network or system, this very “network” may encompass groups or several other movements, each with varied repertoires, not necessarily pursuing the same ends, or presenting a single identity. It is in this sense of network that the struggle of refugees and refugee applicants for recognition and effectiveness of their right to the city can be classified as a social movement. This movement comprises an organization of collective actions, formed by connections between various groups and social actions at different levels, all aimed at securing that right.

Nevertheless, it should be noted that these (empathetic) connections with different groups demonstrate that the struggle of the mentioned group for the right to the city is not an isolated social movement. Instead, it represents an object of conflict and demand from several other groups and movements with distinct identities and repertoires, such as immigrants (in general) and the national population not belonging to the hegemonic social group.

For example, the struggle for the right to housing within the Municipality of São Paulo is led by movements with distinct collective identities but similar repertoires of collective action. These movements include the Housing Struggle Front (Frente de Luta por Moradia [FLM], available at: http://www.portalflm.com.br/) and the Group of Refugees and Homeless Immigrants (Grupo de...
Refugees’ voices in Brazilian cities

Refugiados e Imigrantes Sem Teto [GRIST], available at: https://gristbrasil.weebly.com/.

Thus, the struggle for the right to the city of refugees and refugee applicants is a social movement connected (and contained, even) to the same demand shared by most immigrants and other social groups in conflict with the hegemony of the current world-system — safeguarding the peculiar identity of each group.

However, the “categorization” of the pursuit for recognition and effectiveness of the right to the city for individuals in refuge as a social movement should not be considered indispensable for legitimizing this demand, as it could render the theory regarding new social movements, mentioned earlier, incomplete. According to Gohn (1997), the concepts that support such theory are not yet sufficiently explicit, as the (new) categories used to explain the forms of these movements would emerge from the outcomes of these social processes. Thus, one can only count on a mere diagnosis of the contemporary collective manifestations that generated social movements and the demarcation of their differences in relation to the past. This enables the analysis of the (significant) changes, they generated in civil and political society (Gohn, 1997).

Nevertheless, the right to political participation itself, which is considered in this paper, in principle, as a means of achieving the (human) right to the city, has also been the subject of demands made by collective actions. These demands are even pursued within the same block of social movements that fight for the recognition and realization of the right to the city. As an example, the first Municipal Conference on Immigrant Policies of the Municipality of São Paulo, organized by the São Paulo Municipal Department of Human Rights and Citizenship (Secretaria Municipal de Direitos Humanos e Cidadania de São Paulo [SMDHC]), through its Coordination of Policies for Migrants, took place from November 29 to December 1, 2013. The Conference was organized in collaboration with 13 other municipal secretariats and 14 civil society entities, aimed to foster debate and formulate proposals and guidelines that would subsidize public policies for the immigrant population, ultimately advancing the realization of the right to the city of such individuals, in addition to claiming their right to political participation (Comissão Organizadora Municipal, 2014).

4. The search for the recognition of the right to the city of refugees and refugee applicants: For the whole and for the few

As Fraser (1997) points out, the struggle for recognition of difference occurs within a context of pronounced (and flagrant) material inequalities in the current world-system. Various groups mobilize for issues related to ethnicity, gender, sexuality, nationality, and more, seeking a “recognition of difference.” Struggling for recognition and respect for difference means seeking recognition of the individualities and peculiarities (basically cultural) of each social group, with an emphasis on equal dignity and respect for human rights (Fraser, 1997). This pursuit aims to foster the consolidation of their collective identities within a pluralistic and multicultural society, thereby demystifying the fallacious universalism applied to human rights (Santos, 2010; Taylor et al., 1998).

Fraser (1997) understands that with the overcoming of the socialist paradigm regarding class interests, economic exploitation, and wealth redistribution, post-socialist conflicts (ethnicity, gender, sexuality, nationality, etc.) present group identity as the main mechanism for sociopolitical mobilization. In this sense, this paper does not solely address the right to the city of all its inhabitants indistinctly, but (mainly) emphasizes the right to the city of each group comprising the urban population. Thus, it affirms the right to active and passive participation for refugees and refugee applicants in the city where they reside. This affirmation is based on two factors: (i) The human character (“generic”) of said right and (ii) consideration of the specificities of said group of individuals.

The right to the city must be recognized and guaranteed to the collectivity that inhabits that space (the “whole”), as well as to each specific group that comprises that collectivity (the “few”). It is essential to consider the unique characteristics that differentiate these specific groups. This apparently controversial issue of recognizing the same right in both generic and specific contexts is also addressed by Fraser (1997) when she discusses the redistribution versus recognition dilemma.

The author addresses this dilemma without disregarding the intertwined and mutually supportive relationship between redistribution and recognition, differentiating between injustices concerning economic disadvantages (exploitation and economic marginalization, for example) and those concerning cultural disrespect (cultural and informational domination, for example) (Fraser, 1997). While recognizing the differences between these forms of injustice, Fraser (1997) considers that both socioeconomic and cultural injustices are widespread in contemporary societies and are rooted (and intersected) in the processes and practices that systematically disadvantage certain groups of people in comparison to others.

However, while the requirements for recognition demand attention to the (eventual) specificity of a certain group and, as a result, the affirmation of its value with
equal dignity, the requirements for redistribution demand the suppression of the economic arrangements that cause the groups’ specificity. Thus, the former promotes the differentiation of groups, while the latter, on the contrary, encourages their non-differentiation (Fraser, 1997).

It is observed that promoting economic redistribution would promote the right to the city for the collectivity of its inhabitants, indistinctly (the “whole”), whereas promoting the recognition of cultural differences would ensure the right to the city of each group, specifically (the “few”). In this sense, Fraser (1997) concludes that the dilemma of redistribution versus recognition is insoluble because it demonstrates that individuals subjected to concomitant economic and cultural injustices require both redistribution and recognition. In other words, they need to deny and affirm their specificity at the same time. For this reason, the categories “recognition” and “redistribution” may not suffice for analyzing real demands, for example, those related to gender and race.

Nevertheless, the crucial question that can be extracted from the redistribution versus recognition dilemma presented by Fraser: Differentiate or not differentiate. It raises questions about when and how to proceed and the criteria underpinning such decisions. Undoubtedly, these are some of the most complex and debated aspects of the struggle for recognition and the realization of the right to the city, as well as human rights in general. These efforts aim to ensure that discrimination (negative differentiation) is eliminated and that equal dignity is upheld.

The ownership of this right for individuals in a situation of refuge must be recognized and guaranteed simply because all urban inhabitants — emphasizing the word “all” — have the right to participate actively and passively in the city where they live. In this context, the group of “refugees and seekers of refuge” should not be differentiated, as there is a risk of potentially violating their human rights through an unfair differentiation (one that causes negative effects).

However, the guarantee of any human right (precisely because of its “human” character) without considering the particularities of each specific group and recognizing the diversity within society can often compromise its effectiveness and even deviate from its intended purpose, potentially leading to discrimination. For example, ensuring the right to housing for all inhabitants of a given municipality through a public policy that promotes the lease or acquisition of property by refugees and seekers of refuge without considering that many of them do not speak Portuguese and would need an interpreter or that the contracts and other documents were translated. As a result, to ensure their rights, they would need an interpreter and translated contracts and other documents.

Thus, it is understood that the need to demarcate or not the differences that exist among the groups that make up a community should be analyzed on a case-by-case basis, using the occurrence of discrimination as the criterion. Discrimination, defined as a negative and unjust form of differentiation resulting in human rights violations, serves as a key indicator. However, the consequences of economic redistribution can “soften” and “mask” the negative impacts of the lack of recognition. For example, a refugee with a sufficient monthly income to cover their basic needs for housing, transportation, food, and more would already have their basic needs met. Consequently, they would have the effectiveness (practice) of their right to the city, potentially reducing the demand for specific recognition of this impaired right.

However, in cases where the right to the city is already effectively realized, even before it is formally recognized as a “right” itself, does the struggle for recognition still hold a purpose?

5. The effectiveness of the right, the recognition of identity, and the weapon of the enemy

As mentioned earlier, the concrete effectiveness of the right to the city for individuals in a situation of refuge could apparently render it unnecessary to pursue the recognition of such a right. According to Williams (1991), formal recognition of the right becomes dispensable when there is a real “guarantee” of its fulfillment, and informality can serve this group of individuals who (consciously or unconsciously) already possess social power within the context of a social hierarchy.

However, in light of the demands of the “new” social movements seeking recognition and affirmation of the identities of the diverse and distinct groups that compose society, the issue of formally recognizing the right to the city can be analyzed from two aspects: (i) The need for formal recognition when the law lacks concrete effectiveness; and (ii) formal recognition as a means of achieving sociopolitical emancipation and affirming identity.

In relation to the first aspect, formal recognition of the right to the city — where formal recognition is understood as the provision and legal guarantee of that right — serves as the means provided by the institutions of the democratic state of law to ensure the effectiveness of its content. Thus, institutional recognition of this right represents the pathway toward its concrete realization.

Nevertheless, the formal recognition of the right to the city for individuals in such situations also presents a function of identity affirmation. In other words, it provides...
a means to garner respect (with equality and dignity) for their specificities and to construct an identity emancipated from the “universal subject” conceptualized by liberal legal theory (Brown, 1995). This “universal subject” is considered the binding axis that stresses the paradigm of universal equality. Thus, formal recognition remains essential in cases where the right to the city is already concretely effective for refugees and seekers of refuge.

It is important to point out that institutionalized human rights consist of multiform and irresolute manifestations of historical and cultural character, which vary not only through time and cultures but also along other vectors of power and their resulting intersections — such as class, race, ethnicity, gender, sexuality, age, and education (Brown, 1995). This characteristic demonstrates that apart from being constantly altered in time and space (Comparato, 2013; De Ramos, 2015), the application of law presents varied, inconsistent, and even contradictory interpretations and applications (Brown, 1995). These interpretations and applications depend on the geopolitical space in which they were developed and are applied.

According to Brown (1995), historically, rights have been claimed to ensure the formal sociopolitical emancipation of groups of individuals who have been stigmatized, victimized, and subordinated by particular social identities. This was done to grant these marginalized groups a place of speech in the humanist discourse of the “universal” personality that underlies positive law. This discourse, however, existed in an ahistorical language devoid of culture and outside a sociopolitical context.

However, when considering the historical-cultural character of (human) rights, Brown (1995) states that the “liberating or egalitarian” force of these rights has always been historically and culturally circumscribed. According to the history of the development of human rights, they emerged in modernity as a means of emancipation from political exclusion and institutionalized servitude. They also served as instruments for favoring the emerging bourgeois class under the guise of a discourse of formal equality and universal citizenship (Brown, 1995).

Rights initially emerged as a means of protection against arbitrary abuses of sovereign and social power, as well as a method for guaranteeing and naturalizing the socially dominant powers related to class, gender, ethnicity, and more (Brown, 1995). This was achieved through a liberal constitutionalism maneuver aimed at granting (“give someone, as it suits him,” instead of conquering) freedom, equality, and representation to abstract subjects rather than concrete subjects (Marx, 1967 apud Brown, 1995).

In this sense, the replacement of real political subjects with abstract political subjects destroys the project of emancipation of the former and also subjugates them by emancipating their generic substitutes (Marx, 1967; Brown, 1995). By depoliticizing individuals, the liberal discourse of law masked the social power held by dominant institutions (and groups) (Brown, 1995), ultimately naturalizing the subordination of those who do not conform to the “universal standard.”

In this context, law itself becomes an instrument for the reproduction and maintenance of the social, economic, and cultural inequalities characteristic of the current world-system, as it is a product of certain (hegemonic) forces and interests (Williams, 1991). It is then perceived as the abstraction of all the groups of individuals that make up this system, often referred to as the notorious “universal subject.” The struggle for formal recognition of the right to the city for refugees and refugee applicants serves as an example denouncing the paradox of the discourse of law. It seeks to annihilate injustice and construct an identity using the same instrument that contributes to the perpetuation of inequalities and the abstraction of concrete individuals within a given community.

This paradox raises questions about the feasibility of utilizing the law by the movement of people in situations of refuge in seeking the realization of their right to the city and for the construction of their collective identity. In such circumstances, what would be the consequences of the use of the “enemy’s weapon?” Should it still be used in these circumstances?

Williams (1991) understands that the language of rights should not be abandoned; instead, she suggests that a wide range of other languages should be analyzed when interpreting and applying it. The discourse of the law should not be ignored because, although it is permeated by power relations and is commonly used as an instrument for perpetuating injustices, it consists simultaneously in the space of dispute for the guarantee of rights and the language code for that purpose.

Similarly, Williams believes that the most effective way to amplify the voices of those whose voices are constantly suppressed is to assert that they have no voice at all. This involves dismantling the images of power and replacing them with images of impotence (Williams, 1991). Under this line of reasoning, Williams (1991) demonstrates that the “antidote” to the use of this legal and institutionalized machinery for producing and maintaining injustices is exactly the act of dressing up the law’s flawed clothing and using it. By doing so, one can point out its own vices, using them as the reason for guaranteeing the rights of that victimized individual.
Paradoxically, the enunciation of the flaws within the legal system is absorbed by it, allowing for a certain “victory” for individuals or groups who were previously marginalized and silenced concerning the protection of their human rights. In the case of refugees and refugee applicants, the path to achieving their recognition and, consequently, the effectiveness of their right to participate in urban life lies in acknowledging the exclusionary character of the Brazilian legal system in relation to such individuals. This involves using the very “channel language” of the rights that is meant to defend the groups excluded from it.

Therefore, the struggle for the effectiveness of the right to the city and the affirmation of the identity of these individuals through formal recognition should involve both the use of the existing right and its reinterpretation to employ a new meaning. It represents a quest to reinterpret the law in another sense, based concretely, rather than merely perpetuating the positive norms that instrumentalize and sustain social, economic, and cultural inequalities disguised as universality.

6. Subalternity and the wearing of the mask: The struggle for voice in the city

In the context of masked social power and the domination of individuals who do not conform to the “universal standard,” the group of refugees and refugee applicants can be categorized as one of the subordinate groups, as first listed by Gramsci (2002). According to the author, the term “subaltern” refers to any person who positions themselves at a lower level than another, and in cases involving relative denomination, it can be applied to situations of domination, not exclusively limited to questions of class, which differs from what the Marxist studies have pointed out (Bidaseca, 2010).

Therefore, the term describes diverse and heterogeneous groups that experience domination and exploitation within the current hegemonic system, often lacking a consciousness of class (Vega, 2003 Bidaseca, 2010) — consciousness of their identity, more precisely. Spivak, 2006 apud Bidaseca, 2010, Bidaseca (2010) considers that subalternity represents a situation where individuals are distant from any social mobility or inhabit a non-homogeneous space of difference, which cannot be generalized and does not configure a position of identity conducive to forming a basis for political action. In this paper, however, the term “subordinate” is used instead of “subaltern” since the former alludes to an imposition on these individuals, rather than a voluntary or conscious self-placement.

Similarly, ethnic and sexual minorities, migrants, and refugees are also considered subordinate subjects (Bidaseca, 2010) because they are represented as populations existing outside the idealized (and universal) community of a given nation (Anderson, 1983 apud Bidaseca, 2010). Their (political) presence and cultural differences are frequently denied (Brago, 2000 apud Bidaseca, 2010; Bidaseca, 2010). According to the philosopher Todorov (1981) and Bidaseca (2010), individuals who are seen as the “other” (distinct from the “universal standard”) are murdered or led to collective suicide, or even phagocytized in his cultural difference, in a constant process of depersonalization (Bhabha, 1970 apud Bidaseca, 2010).

However, considering that those in subordinate positions are denied political agency, they are silenced, and their subjectivity is blocked. One cannot recover the voices and conscience of such individuals from their memories, which are only records of the domination they have suffered. Moreover, even if their voices exist, they are denied a space of enunciation within the world-system (Spivak, 2006; Bidaseca, 2010).

In this sense, when the subalternized individuals speak, they merely express the voices of domination and the resulting “universalized” representation. This is because the liberal legal discourse mentioned earlier fosters a false notion of equality and representation, which deludes the subjugated individuals into the illusory idea that they are the “authors” of the State and, consequently, the creators and addressees of the city where they live (Brown, 1995).

However, as soon as these individuals acquire their own voice and begin to express their identity, they liberate themselves from this false representation and cease to be subalternized (Spivak, 2006; Bidaseca, 2010). Consequently, ceasing to be subalternized, the individual becomes the protagonist and narrator of their own life, narrating their daily experiences, as well as those of their group, and recording their authentic memory (Benjamin, 1994).

In this way, the right to the city for refugees and refugee applicants can only be effectively realized through their concrete (political) participation in shaping and contributing to the urban environment in which they reside. This participation extends to their effective involvement in the elaboration of public policies aimed at their integration into the community, with careful consideration of the specific identities within their group. The simple elaboration of government policies for the integration of this group of individuals, without affording them the opportunity for influential political participation, only keeps them as an object, distant from the policymakers and distant from the reality itself (experience) they seek to regulate.

It should be noted that the granting of rights to a certain group of impoverished and “vulnerable people,”
while aimed at guaranteeing their protection, does not promote their real participation as recognized political and rights subjects. On the contrary, these rights, within the prevailing social order, are interpreted as “small favors” granted to the “least favored,” thereby depriving them of an authentic voice and relegating them to a world-system for which they were not idealized—they are visible but “mute.”

Conversely, we should promote the direct participation of individuals in situations of refugee rather than relying exclusively on their indirect (representative) participation. The promotion of the current “universal” representation means the recognition that the aforementioned subalternized group, in fact, has no room for enunciation—even less a voice of their own. However, given that the subalternized individuals are often denied the opportunity to speak, and when they do, they tend to reproduce the dominant voice, it is necessary to consider the paradoxical nature of the discourse of the law in the sphere of the political participation of refugees and refugee applicants. Encouraging such participation within the institutionalized political system could inadvertently utilize the instrument of subalternization to grant them an authentic voice and the corresponding opportunity for enunciation.

In this sense, the struggle of social movements faced by refugees and refugee applicants for a space of participation in Councils and Municipal Committees, or for the right to vote itself, can be seen as the use of the “enemy’s weapon” to position themselves within an “institutional box” and continue to reproduce the speech of the dominator, that is, “put on the mask” of that dominator (Habha, 2000; Bidaseca, 2010; Fanon, 1986 apud Bidaseca, 2010; Bidaseca, 2010; Pelúcio, 2012). As previously highlighted, in light of the right to political participation, it is worth noting that despite Article 14 of the 1988 Brazilian Federal Constitution expressly prohibiting the enlistment of foreigners and denying them the right to vote and stand for elected office, refugees and refugee applicants can still exercise their right to political participation through alternative means, such as participation in councils, committees, and forums.

However, similar to the discourse of law, institutionalized forms of political participation should not be abandoned, as they serve as the field of dispute and the “channel language” for the struggle to guarantee (human) rights. As Pelúcio (2012) presents, the practice of “wearing the mask” of the dominator can also be adopted as a strategic resource for resistance and survival. Through mimetic practices, subalternized individuals “camouflage” themselves (Bhabha, 2002; Bidaseca, 2010) and begin to destabilize, renge, and confront this domination (Bidaseca, 2010).

Therefore, individuals in refugee situations would seek participation in institutionalized bodies of popular consultation at the municipal level, aiming to secure their survival within the political system in force. They may imitate the dominant group simply to become “sympathetic to the dominant eyes” and avoid the complete annihilation of their identity and rights. In this case, it does not entail total depersonalization of the subject. In this “masked” state, such individuals constantly negotiate their alliances with the dominant social power, as well as with the other subalternized groups. They navigate numerous interstices and intersections of identities and differences, where intersubjective and collective expressions of cultural value and common interest are negotiated (Bhabha, 2002; Bidaseca, 2010). These intersections may involve ethnicity and gender, class and gender, class and ethnicity and gender, religion and ethnicity, and religion and gender. Consequently, they determine when to imitate the current system and when to confront it.

In the same sense, the precarious and unequal distribution of urban space, conceived from the perspective of dominant groups, would be an obstacle to access by subalternized groups to the services, advantages, and facilities that the city has to offer. However, through their daily and embodied collective experiences, these same subalternized groups, serving as protagonists in their (our) history, end up developing processes of knowledge and affection that emerge as paradigms within the urban fabric. They transform these precarious spaces into substantial parts of the struggle for survival, resistance, and advancement in realizing their rights (Trimikliniotis et al., 2015).

7. Conclusions
The Brazilian legal system guarantees that individuals in refugee situations have access to the citizenship rights necessary for the preservation and maintenance of a dignified life within the national territory. These rights allow them to access and participate in the city. The right to the city, in essence, constitutes a full right of citizenship, consisting of a set of (human) rights indispensable to the integral participation of the city. This encompasses enjoying all the services, opportunities, and advantages offered by the urban space as well as contributing to the elaboration, execution, and oversight of public policies.

According to the senses of city and citizenship concepts adopted in the present paper, refugees who inhabit the urban space become an integral part of the community. They contribute to its (re)building through their presence and interactions with other members, all from a citizen's perspective. By being recognized as legitimate citizens, individuals in refugee situations possess the right to the city they inhabit. Through the enjoyment and exercise of
these full citizenship rights, their effective integration can be realized.

While the struggle of refugees and refugee applicants may not readily fit the criteria of a genuinely social movement — the present paper does not even dare to do so — it is connected to similar processes where collective identities, driven by empathy and material organization, aim for a common goal: The recognition and effectiveness of the right to the city. Whether or not the actions of people in a situation of refuge can be classified as a social movement based on the recognition and realization of their right to the city should not be considered an indispensable condition for the legitimacy of their demand. This is primarily an academic consideration, relevant for the purpose of scientifically and analytically studying this collective phenomenon.

The demand for the recognition and effectiveness of the right to the city by refugees and refugee applicants is rooted in both their status as members of the broader population and the recognition of the unique characteristics of their group. This recognition serves to enhance the practical realization of this right while preventing any form of discrimination. In this sense, one must always consider the differences between this group and other groups, as these differences play a pivotal role in determining the real effectiveness of their right to the city. Moreover, while addressing economic disadvantages through wealth redistribution may “mitigate” the negative impacts of the lack of recognition, it does not actually eliminate cultural injustice, which persists in a subtle and “concealed” way.

For this reason, formal recognition of the right to the city for refugees and refugee applicants is not only relevant for the concrete realization of the (human) rights that compose it but also indispensable for the affirmation of the identity of these individuals in the face of the false idea of an abstract and universal political subject. Nevertheless, even if the law configures an instrument for the reproduction and maintenance of the “universal standard” and its consequent social, economic, and cultural injustices, it should not be abandoned but rather denied under the conditions in which it is applied and reconstructed on a new semantic basis.

In the same sense, institutionalized means of political participation should be used to empower individuals in refugee situations to suppress subalternation and conquer space for the enunciation of their authentic voice, even if momentarily disguised under the “mask of the enemy.” As protagonists and narrators of their own history, these individuals are better equipped to achieve the realization of their right to the city with respect to their specific identities. This guarantees their full participation in the formulation and implementation of municipal public policies aimed at them, thereby facilitating their effective integration into the community.

In this sense, the struggle for the recognition and realization of the right to the city for refugees and refugee applicants, achieved through full political participation in the municipal sphere, seeks the recognition of these individuals as real political subjects, becoming inhabitants with rights and responsibilities — essentially, citizens. It should be emphasized, however, that this paper has no pretension to exhaust the subject — nor could it, given its complexity — but rather risks in a first analysis in the expectation of inciting interest for further discussions.

Acknowledgments
None.

Funding
None.

Conflict of interest
There are no conflicts of interest in this study.

Author contributions
This is a single-authored article.

Ethics approval and consent to participate
Not applicable.

Consent for publication
Not applicable.

Availability of data
Not applicable.

Further disclosure
This paper extends the contents presented in “The Welcoming of People in Search of Refuge in Brazil: Citizenship and the Right to the City” (DOI: 10.12957/rdc.2022.52969).

References


Refugees' voices in Brazilian cities


