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Guarantee of the Social Existential Minimum in the Context of Metropolitan Regions: A Study on the Interdependence Relations in Public Functions of Common Interest for the Realization of Fundamental Rights in the Dimension of Social Rights

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Abstract

The article discusses the consequence of forming Metropolitan Regions due to population growth and the increased demand for services to implement minimum social rights. These regions do not adhere to traditional border limits, leading to a collision of fundamental rights and challenges of autonomy and responsibilities among municipalities. It argues that Metropolitan Regions should serve as spaces for the defense of social rights and human dignity. It proposes an interfederative governance system based on cooperative federalism to resolve the complex issues faced by municipalities in these regions. The responsibility for social rights, such as health, education, safety, and transportation, lies with each municipality, but the interdependence and integration in Metropolitan Regions demand a democratic and transparent governance structure. It concludes that democratic metropolitan governance, respecting the unique needs of each member, is necessary to ensure the fulfillment of social rights in Metropolitan Regions.

Keywords

Public Governance, Brazilian Federal Pact, Fundamental Rights in Cities

1. Introduction

The Metropolitan Region transcends the understanding of a city, as the confrontation of daily challenges composes the reality of a multi-composed society. The complexity of actors and relations among governmental, political, and social institutions contrasts with various social rights. Thus, the science of law is at the core of contemporary dynamics, bringing dialogicity as a method and interactive and discursive autonomy as foundations.

In this context, the federal pact, after various changes in the decades following its implementation, was initially based on duality, later transforming into the current model of the 1988 Constitution, essentially cooperative (Bacelar, 2012), granting the Municipality due recognition as a federative entity with autonomy and competencies. Among these, the execution of urban development and social functions of the city stands out, aiming to guarantee social rights to its inhabitants, as determined in constitutional norms that distribute material and legislative competencies among federated entities in Brazil, currently organized in three spheres that together realize the tripartite management model involving the municipality, the State, and the Federal Union.

Due to population growth, which imposes the expansion of the urban core, as well as challenges resulting from the increased demand for services, neighboring municipalities, especially those near capitals, start to compose a process of conurbation that results in the creation of Metropolitan Regions, as a product of a "confusion" and "indefinition" social, economic, political, and urbanistic of the limits of the cities that comprise them. Initially, the metropolitan regions were established by the federal government initiative in 1974, in obedience to the 1967 Constitution, and later by § 3 of Art. 25 of the 1988 Constitution, from which the organization of the metropolitan regions was transferred from the federal government to the States (Garson, 2009).

In this scenario, the collision of fundamental rights and the absence of borders of socio-economic and individual rights are inevitable, which relativizes or amplifies the meaning of the city; the mitigation and conflict of the autonomy of federative entities, as well as the limits between states and municipalities and between municipalities, and the inherent contradiction between well-being and precariousness of social rights; indefiniteness and absence of responsibilities, as well as the autonomies and dependencies among the municipalities themselves.

The metropolitan regions, from an interdisciplinary perspective, given the set of elements that compose them, substantiate a hypothetical relationship between cities that, in the search for the social existential minimum, necessarily communicate, due to the interdependence in Public Functions of Common Interest (FPIC), such as transport, education, health, sanitation, cultural, economic, among others.

In this sense, the regions do not respect border limits or legal juridical limitations, increasingly demonstrating the need for a dedicated and careful analysis from the theoretical doctrinal viewpoint, pointing out relevant reflections in the

weighting of colliding rights and principles and the guarantee of the existential minimum of social rights as a way to ensure human dignity.

In this multifaceted scenario, where we have the Union, State, Municipalities, social dynamics, political agents, and various rights that collide and are weighted in the vivacity of the Metropolitan Region, it is relevant to reflect and question the effectiveness of the social existential minimum in metropolitan regions in Brazil as a way to guarantee human dignity and citizenship, subjecting itself to various interrogations that can be answered from a social, political, cultural, anthropological, and economic viewpoint (Assis & Kumpel, 2011).

This article aims to propose a debate within the Metropolitan Region as an arena where the actualization of social rights and the existential minimum should occur, in a contextualized method, to show that interfederative governance stems from the cooperative federalism established in the constitutional pact and that should guide Brazilian public management.

2. Metropolitan Region: A Fundamental Debate

The urban phenomenon of conurbation between cities, especially around capitals and regional hubs, resulting from population growth and economic dynamism, consequently leads to imbalances in the offering and realization of a series of rights, particularly social rights, which generate repercussions and impacts beyond political borders and territorial limits.

By metropolitan region, it is understood as a densely urbanized territorial space with intense economic activities, presenting a unique structure defined by private functions and peculiar flows, forming a single socio-economic community where needs can only be met through coordinated and jointly planned governmental functions (Grau, 1974).

They also consist of urban spaces characterized by a high density of people and concentration of economic activities, generally resulting in strong economic externalities, which weaken the role of legal-political borders (Garson, 2009). In the words of Tourinho and Silva (2016: pp. 57-58):

> The presence of a metropolis, that is, a pole city commanding a region, is a prerequisite for the existence of a metropolitan region; it's what distinguishes it from urban agglomerations, where urban centers belonging to more than one Municipality, whether conurbated or not, are competitors or more balanced among themselves. However, the presence of a regional command node does not necessarily imply the occurrence of a metropolitan phenomenon that justifies the creation of a metropolitan region. From a conceptual standpoint, the institution of a metropolitan region presupposes intense and daily intermunicipal relations, which generate the need for shared actions in the field of planning, management, and execution of certain functions.

It is important to understand that, according to Meirelles (2008), the metropolitan region does not constitute a federative entity that exists below the State

and above the Municipalities, since, in the Brazilian constitutional evolution, there is no room for another political entity, but it is understood as a special service area that can be administered under various administrative aspects, but that serves the interests and conveniences of each region.

The first governmental initiative in response to the scenario of regional growth of bordering cities was by the Federal Government, in compliance with the Constitution of 1967, implementing a national policy for the creation of some Metropolitan Regions as a mechanism of public policy to overcome these dichotomies in the mid-1970s. In this regard, Horta (1975: p. 34) brings us, in a way, the official discourse of the creation of the Metropolitan Region:

> The metropolitan region was born of diverse inspiration. It does not arise from the needs of underdevelopment, but, on the contrary, it can be said that it is the fruit of development, industrialization, and demographic explosion. The word "metropolitan" denotes greatness, capital, a large metropolis city. The population concentration calls for macro-decisions to preserve human well-being in large urban areas, at the stage when the metropolis transforms into the inhuman megalopolis.

The metropolitan region thus emerges from the need for a tool that could address the problems arising with urban phenomena and their demands for public policies, which, ultimately, are fundamental rights. Despite the "years of lead" and, consequently, restricted freedom, fundamental rights were accumulating with the growth of metropolises, such as health, education, housing, and transportation, due to the expansion of territorial occupation towards peripheral areas and cities. It is in this context, too, that, with conurbation, transportation presents itself as an essential and strategic service, as a mechanism for access to housing, work, and public services (Mattos, 2021).

Creating the metropolitan region as an instrument to confront these structural problems and to meet the rights of the population would lead to a fruitful debate: what legal nature would it assume? What would be the limits and competences of the metropolitan region? How would it function? Thus, researchers and technicians of the time delved into meetings and events with the focus of understanding this new legal-political arrangement, such as the "Week of Debates on the Institutionalization of Metropolitan Areas," the "International Seminar on Metropolitan Planning," both in São Paulo, and the "I Meeting of the Mayors of the Capitals," held in Garanhuns, State of Pernambuco. In this sense, we can verify in the report of Horta (1975: p. 34) the concerns regarding the legal-political aspects of the Metropolitan region:

> The Week of Debates established a position of preserving municipal autonomy, insisting on the normative activity, and not the executive activity of the bodies of metropolitan regions, to challenge the institutionalization of the metropolitan region as a political or politico-administrative entity, above the Municipalities, and subtracting their autonomy in what is of their

peculiar interest. There was a defense of the need to establish the concept of the peculiar metropolitan interest, distinct from the peculiar municipal interest. The former focused on the provision of common services of the Municipalities of the same socio-economic community, and the latter on its own administration, in accordance with the peculiar local interest. This is a fundamental distinction, without which the experience of the metropolitan region may turn into a focus of permanent conflicts and paralyzing litigations of the promising solution. The "I Meeting of the Mayors of the Capitals" recorded an intense dispute between technicians from the National Housing Bank, supporting the need for a strongly centralized Metropolitan Government—which led to the allusion to the figure of the "super mayor"—, and the autonomists, defending the Municipalities and municipal administrations against this anomalous entity—the Metropolitan Government—constructed in disregard of constitutional rules.

However, the planning implemented during the military dictatorship, which lasted until 1985, viewed the metropolitan phenomenon as a territorial planning unit under a rationalist, authoritarian, centralizing, and homogenizing praxis of territorial planning, as a ready and finished recipe to be implemented in metropolitan regions, with the purpose of achieving the desired development.

According to the analysis by Pinheiro, Ponte, and Rodrigues (2014), the implementation of a national plan for metropolitan structuring, carried out from a logic of planning in mathematical projections and inspired by theoretical diagrams of urban growth and urban sociology from the Chicago school, saw the metropolitan phenomenon with objective technicism, as a way to leverage local economies. However, the application of a centralizing methodology did not take into account other factors that influence the region's own conflictual dynamics, led by local political, economic, and social agents, which are determinants in the reconfiguration of the urban space and its own plural and multicultural mechanics.

It should be noted that the model later became weakened and ineffective, but the diversities and the field of rights realization, in a metropolitan setting, accumulated with the growing scarcity and deficiency of public services, resulting from strong economic, social, and political externalities that do not respect the political-legal borders of cities.

Thus, there was rapid population densification, with disorganized land occupation, without adequate structural, economic, social, and administrative planning to meet the growing demand in these regions, where a high flow of people circulates daily, whether migrants or internal movements, center-periphery, or periphery-periphery, guiding economic, social, merchandise, services, and transportation circulation, which ignores the limits of conurbated and clustered municipalities, configuring cities/metropolises (Garson, 2009).

With redemocratization, the original constituent power authorizes the federated States to institute metropolitan regions, urban agglomerations, and micro-

regions, with the aim of integrating the organization, planning, and execution of public functions of common interest (FPIC), according to § 3 of Art. 25 of the CF/1988, not explicitly stating, however, the competence or attribution regarding the form or dynamics of management, or how the legal, administrative, political, and economic instruments will be used in facing the pulsating challenges of metropolitan management and the consequent realization of social fundamental rights.

The constitutionalization of the metropolitan region and the attribution of state competence for its institution ratify the legal concept of conurbation, considering that its recognition and formalization by the States, due to the need for organization, planning, and execution of public functions of common interest, presuppose the existence of economic, social, and urbanistic facts, whose institutionalization is a step towards the possibility of its creation.

On the other hand, the Municipalities were recognized as members of the Federation by Art. 1 of the CF/1988, with a position similar to that of the States, burying—or at least strongly hindering—the legitimization of the States as a coordinating body for metropolitan actions. Moreover, changes in the fiscal federalism system implied, at least immediately, greater autonomy for state and municipal governments in tax collection and in the use of the share of the main federal taxes shared with them (Garson, 2009).

It is important to reflect that the Municipality does not constitute an isolated and independent universe, where, within its limits, responsibilities and problems begin and end, as in the cold constitutional expression of the autonomy of the Municipalities or in the Cartesian delimitation of competencies foreseen in Art. 30 of the CF/1988, nor in the execution of the policy of urban development and development of the social functions of the city, expressed in its Art. 182.

From this perspective, the understanding is brought as a parameter that the Municipality is the political-administrative entity that, through its government bodies, has political, administrative, and financial autonomy (Meirelles, 2008). It develops its role by providing public services within its competence in the city, an expression associated with urban space reintroduced into the Brazilian positivist system with the CF/1988, returning to its place as the object of study of Urban Law (Bruno, 2016).

Different from the period before the CF/1988, in a centralizing model of planning and imposition of public policies, the post-redemocratization period, under a new constitutional logic, added another challenge to the realization of the metropolitan region, having attributed to the federated State the competence to institute them. Thus, implicitly, it leads political-legal entities to dialogue with their autonomies and exercise cooperative federalism, as can be verified with the analysis of Dias (2009: p. 201):

> It is observed that Brazilian Federalism presents modifications characterized by the gradual broadening of functions to the municipal sphere, today more committed and endowed with greater autonomy for cooperation in

achieving common goals to the Federative Republic, an expression of the three-dimensionality of our Federalism. Indeed, through the Federal Constitution of 1988, the Municipality gains contours of a political-legal entity, integrating the Federation with an autonomy never before received, conferring a peculiar character to our native Federalism. The wide municipal autonomy for the realization of public policies is a characteristic trait of contemporary federalism that privileges competence for the realization of public policies.

The ideal of cooperation generates conflicts or interfederative collisions, influencing directly or indirectly the full development of the social functions of cities and, consequently, of the metropolitan region, since the composition of political forces aims to curb individual actions and various interests that want to override the interest of the community (Dias, 2009). Therefore, the action and intervention of all federative entities are of utmost importance, with the objective of solving problems, distancing or approaching the (in)effectiveness of rights.

Besides the intra-border effects and interfederative actions, in the case under analysis, one must not forget that interdependence and cooperation—a horizontal perspective, even without hierarchy—also reverberate throughout the metropolitan space, creating various obstacles in guaranteeing fundamental rights, as agents act directly or indirectly in all the municipalities of the metropolitan region, whether as consumers, suppliers, clients, public service users, labor force, visitors, residents, among other agents.

Thus, it is not possible to advance in the realization of fundamental rights without enshrining the understanding of this dynamic of interdependence and vivacity of vertical (Union, State, Municipality, law, and people) and horizontal (cities, law, and people) relations, in the composition of the field of realization of social rights that is the metropolitan region.

The practical portrait of this symbiotic and dialogic relationship is the series of infrastructural, legal, and citizenship challenges. Therefore, it is important to highlight that, in general, the metropolis—which is usually the capital—attracts investment from the perspective of vertical interfederative relation, private initiative, whether economic or infrastructural, and the other cities in the network enhance the processes of poverty dynamics, through the precarization of neighborhoods, land irregularities, and absence of urban services. This logic reinforces the metropolitan scale as the place of central-periphery dynamics (Franzoni & Hoshino, 2015).

The escalation of intrametropolitan inequality is a tone to be confronted for the achievement of the guarantee of social rights, as such distortion results in an overload of responsibilities and needs on the metropolis, the pole Municipality of the metropolitan region, presenting high demand and little structure for service, as well as budgetary financial fragility to meet it.

On the other hand, the Municipalities that constitute the periphery of the

metropolitan region follow another nefarious equation: precarization and disorganized occupation of the land; absence and precarization of services; little collection due to the lack of economic base and weak population, being yet another pole of generation of poverty, needs, and absence of basic rights, resulting in the distancing of rights.

There is a tenacious difference in their structures, collection capacity, and choice of expenses, which leads to a diversity of priority scales in the execution of plans and budgetary actions in the face of a lack of resources, which generates another negative point in the face of the need for cooperation (Garson, 2009).

Thus, the need for Municipalities to ally and establish a cooperative relationship arises from the perspective of disproportion between them and the managerial realization of their individual incapacities, in the proportion of confrontations of problems, say the minimum guarantee, of social rights to the inhabitants.

3. The Brazilian Federative Pact and the Metropolis Statute

In proportion to the constitutionalization of various individual, collective, social, economic, environmental, urbanistic, among other rights, the right to the city, in particular, comes with a constitutional innovation with the recognition of the Municipality as a federative entity, portrayed in art. 1 of the Republican Charter of 1988.

Thus, the Brazilian federation, after various changes and experiences, decades after its implementation, initially had the Union and State as federative entities, doctrinally defined as a dual model. With the Constitution of 1988, it becomes composed of the indissoluble union of Union, State, and Municipalities, with stature and constitutional competencies, formatted in a model that, adapted to the models offered by the doctrine, corresponds to what is called cooperative federalism (Bacelar, 2012).

This new configuration of federalism with three spheres, or tripartite, leads to reflection on a major problem, as the constitutionalization of the municipality and the delimitation of competencies and responsibilities for the new federative entity, far from being a simple solution to the problems faced in the daily life of cities, added another complicating element in addressing the problems of cities, especially in metropolitan regions.

It is important to clarify that, before 1988, the constitutionally legitimized sphere to create metropolitan regions and implement actions and public policies in the cities of the region was the Federal Government. However, the metropolitan regions instituted by the federal government in 1974/1975, as well as the state structures created for their management, entered into crisis from 1979.

The sectoral policies implemented under the authoritarian technocratic bias did not achieve results in guaranteeing rights realizable within the cities of the metropolitan region, even having constitutional legitimacy and execution power, in the face of the authoritarian period experienced at the time. This shows that

not only the Constitution, the Law, and the management of a coercive federative unit can be the solution to face the complex problems of the metropolitan region (Garson, 2009).

In this analysis, the issue lies, from 1988 onwards, in the initial collision of interests between the federative entities—which historically hold the largest shares of power and competencies—for not consenting to share management in balance with other forces, whether state or municipal, or, further, due to aggravations arising from the attribution of competencies to municipalities without the necessary structure to carry them out (Bacelar, 2012).

Facing problems of implementation and maintenance of social, individual, collective rights, and the whole range of fundamental rights, which are realized in the city and, consequently, in the metropolitan region, from a constitutional enactment, is to anticipate chaos, is to seek a cooperative alternative, whether vertical (union, state, municipality, and civil society representation) or horizontal (territorial space and population).

In the metropolitan region, the economic, population, and opportunity aspects reverberate in increased migrations between cities, population swelling, demand and supply of opportunities and services, creating a regional reference, which gathers a considerable portion of the economy and population of the state, region, or country, thanks to movements that impact regional life (Santos, 2007).

In this perspective, the model of interfederative governance, proposed in the Metropolis Statute, which results from cooperative federalism, is directly related to the validity of a minimum standard that harmonizes the federated political entities and, consequently, society, under the exercise of instruments of popular participation and constitutionalized political rights.

In this context, the Federal Constitution of 1988 (CF/1988) also brings an attempt to define an institutional base for metropolitan management, giving the State the competence to institute metropolitan regions in order to integrate the organization, planning, and execution of public functions of common interest, as brought in art. 25, § 3 of the CF. In its art. 182, in turn, it assigns the municipalities the competence to execute the policy of urban development, to order the full development of the social functions of the city and the imperative duty to guarantee the well-being of its inhabitants.

In this sense, as the interdependence between the cities of the metropolitan region is a fact that transcends limits and borders, legal, political, social, economic, and even constitutional competencies, the guarantee of the existential minimum of social rights, which implies well-being in the city, is the corollary to be achieved cooperatively and jointly, as the imbalance of one right will directly reflect on the other.

The apparent collision of norms, rights, and constitutional competencies, over the possible conflict and breach of the federative autonomy of the Municipalities in the management or creation of a metropolitan region, was definitively addressed by the Supreme Federal Court (STF), on 03/06/2013, in the judgment of

Direct Action of Unconstitutionality (ADI) No. 1842/RJ. On the occasion, the plaintiffs argued that LC No. 87/1997 of the State of Rio de Janeiro, in articles 1 to 11, and State Law No. 23.869/1997, in its arts. 8 to 21—which dealt with the institution, composition, organization, and management of the metropolitan region of Rio de Janeiro and the Microregion of the Lakes, besides establishing the functions and public services of common interest, as well as the regime of public transport in the region, respectively—affronted the federative principle (arts. 1; 23, I and 60, 4˚, I, of the CF), municipal autonomy (arts. 18 and 29 of the CF), the exercise of exclusive municipal competencies (arts. 30, I, V, and VIII, and 182, §1 of the CF) and common (arts. 23, IV, and 225, of the CF) of the federative entities and the principle of state intervention in municipalities (arts. 18 and 29 of the CF).

The STF recognized that the essence of municipal autonomy is composed of self-administration, consisting of decision-making capacity regarding local interests without delegation or hierarchical approval, and self-government, which consists of the election of a Mayor and Councilors. Therefore, the common interest and the compulsoriness of metropolitan integration are not incompatible with municipal autonomy, as the former, which includes public functions and services that serve more than one municipality, is of interest to both federative entities.

The Constitutional Court also clarifies that the establishment of metropolitan regions can bind the participation of bordering municipalities and aims at the execution and planning of public functions of common interest (PFIC), with the purpose of providing adequacy to the delivery of such functions and offering economic and technical viability to the weaker municipalities in the metropolitan region. Thus, municipal autonomy is not diminished, but rather, cooperation in the governance of the metropolitan region is fostered. Careful of the risk of one federative entity predominating over another, thus tarnishing the logic of autonomy and the federative pact, the Supreme Court established the need to avoid the decision-making power and the granting of public services, or public functions of social interest, being concentrated in the hands of a single entity. In this sense, it recognized that the responsibility for management, the granting power, and the ownership of common services should be carried out by a collegiate body, not necessarily parity-based, and that the participation of each Municipality and the State should be according to regional particularities, as long as it does not allow the absolute predominance of one federative entity over another.

Thus, the Supreme Federal Court (STF) established a direction in the constitutional, political, and administrative relationship of metropolitan management, strengthening the cooperative sense, essence of the federative pact post-1988 Constitution, and a legal framework for the achievement of the minimum existential right to well-being in the city, based on cooperative management and the addressing of challenges in the realization of rights in the city. Furthermore, it delineated, including, the cooperative decentralization of political-administrative

power over the planning and management of the metropolitan territory, imposing balanced management among the various Federated entities (Franzoni & Hoshino, 2015).

Years later, in 2015, with the advent of Federal Law No. 13.089/2015, known as the Metropolis Statute (EM), general guidelines were established for the planning, management, and execution of public functions of common interest in metropolitan regions, consisting of general norms on the plan for integrated urban development, instruments of inter-federative governance. An important legal milestone for the strengthening of the reflection of federative entities in the formation of their metropolitan governance models, the provision of guidelines brings the norm closer to the reality experienced by metropolitan regions, as it gives freedom to regional specificities in the composition, ordering, and own arrangements of each city and regions therein, in addressing the difficulties faced collectively.

It is important to highlight that, among the innovations brought by the Statute, article 2, II stands out due to its conceptual relevance regarding the particularities of each city, region, and the reality faced in each locality. By this provision, the Law exempts itself from limiting policies, sectors, or rights in the definition of what is a Public Function of Common Interest (PFIC), understanding that it can be any public policy or action whose realization by a municipality alone can have an impact on a bordering municipality.

This provision recognizes the interdependence between the cities of the metropolitan region and the indissociable cooperative relationship of the federative pact, where the realization of social rights can be assured in a shared and democratic construction and with the overcoming of the cultural isolationist vision of the municipal entity. Inevitably, the Law constitutes an important step in the shared solution of metropolitan problems and the realization of social rights.

In the scope of inter-federative governance of metropolitan regions, the Statute established in article 6 and its clauses principles to be respected, such as: "I—prevalence of the common interest over the local; II—sharing of responsibilities and management for the promotion of integrated urban development; III—autonomy of the entities of the Federation; IV—observance of regional and local peculiarities; V—democratic management of the city according to articles 43 to 45 of Law No. 10.257, of July 10, 2001; VI—effectiveness in the use of public resources; VII—pursuit of sustainable development" (Brazil, 2015). In the field of what should be, the Metropolis Statute presents principles that, if realized in the metropolitan everyday life, will achieve well-being in the right to the city in its fullness, as well as the other Fundamental Rights that are realized in the municipal territory and, as such, in the metropolis.

Continuing in the ideal world of the cold letter of the law, the guidelines brought in article 7 privilege the permanent and shared process of planning and decision-making; shared means of administrative organization of public functions of common interest; integrated system of resource allocation and accoun-

tability; cost-sharing; participation of civil society in planning and decision-making; compensation for services provided by the Municipality to the urban territorial unit, finally, directions to be followed by the governance of metropolitan regions, especially their political and technical agents (Brazil, 2015). Thus, it is up to these to understand the managerial challenge to be achieved, which, objectively, keeping the due particularities, will assist in solving various problems that plague cities, especially those that make up metropolitan regions.

In article 9 of the referred Statute, we also have the instrumentalization of cooperative management of the federative pact, regarding urban development policy, which is nothing more than the metropolitan dimension of the competencies of article 182 of the Federal Constitution. In other words, they are the legal-administrative tools that will assist the entities that make up the metropolitan management (cities, State, and society), in the pursuit of well-being in the right to the city, namely: "I—plan for integrated urban development; II—inter-federative sectoral plans; III—public funds; IV—inter-federative urban operations consortia; V—zones for shared application of urbanistic instruments provided in Law No. 10257, of July 10, 2001; VI—public consortia, observed Law No. 11.107, of April 6, 2005; VII—cooperation agreements; VIII—management contracts; IX—compensation for environmental services or other services provided by the municipality to the urban territorial unit, as per clause VII of the caput of article 7 of this Law; X—inter-federative public-private partnerships" (Brazil, 2015).

4. The Social Minimal Existential

From a legal and institutional standpoint, legislative advancements in defining the role and format of action for each federative entity can be considered an important step in attempting to solve one of the many problems to be faced, defining in what form cooperation should take place. From this perspective, the approach to metropolitan governance, which depended on institutional mechanisms, was addressed at the constitutional level and in the jurisprudence of the STF (Supreme Federal Court) in the judgment of ADI No. 1842/RJ, and at the infra-constitutional level with the enactment of the Metropolis Statute. These instruments guide the practices that define world views and conceptual models of metropolitan governance in the elaboration, conduct, and execution of public policies (Pinheiro, Ponte, & Rodrigues, 2014).

Clearly stated, the rule challenges federative entities and their political, social, and economic agents to give effectiveness to social rights, which are only realized in the space of cities and consequent metropolitan regions. In this vein, legal science, together with other fields of knowledge that influence the dynamics of the city and metropolitan governance, allows for reflection on the aspects inherent to social rights, from a perspective of metamorphosis, explaining the fundamental rightness of various fundamental rights, which must be guaranteed from a minimal existential standpoint. Such a guarantee has a negative protec-

tion aspect, regarding the prohibition of arbitrary state power over the minimal social rights of all people, and also a positive protection aspect, consisting of the effective provision of fundamental rights for everyone, especially those who most need state services: the population.

In this logic, Sarlet (2017) understands that the postulate of the minimal existential exercises a condition of fundamental right and is directly linked to the precept of human dignity in dialogue with other fundamental rights, including social rights. Therefore, the principle results in the realization of minimal elementary presuppositions for the essential existence of the principle of the Social Rule of Law, constituting itself in a primary task and obligation.

Social rights, which in their metamorphosis are substantiated in just-fundamental activities of positive provision in guaranteeing the social minimal existential, summarize the guarantee of other fundamentalities, such as the right to freedom of movement, human dignity, rights to housing, environment, security, education, health, leisure, sanitation, transportation, and work. They are, thus, a set of rights that are realized in the city, and the absence or scarcity of one or several of them compromises well-being, human dignity, and citizenship.

From this perspective, Sarlet (2017) shares the logic that all fundamental rights have an essential core, and the notion of a minimal existential, as per Brazilian doctrinal and jurisprudential evolution, constitutes an important material criterion, considering peculiarities. This is because these are rights with enforceability clauses that assume and reflect an individual and collective dimension, requiring the public power to guarantee and effectuate social provisions to the population, which are configured as a minimal existential, under the risk of incurring violations such as insufficient protection or negligent, perhaps even intentional, omission.

The minimal existential ensures the initial conditions of social rights; such just-fundamentality is a material prerogative for their exercise. Conversely, the lack of minimal existential ends the possibility of dignified survival of the individual, who is subjected to deprivations regarding primary conditions (Torres, 2003).

It is emphasized that social rights are essentially linked to the Principle of Human Dignity, a fundamental premise of the guarantee of the minimal existential. Similarly, the fundamental principle of citizenship is intimately linked to social fundamental rights in their manifestation, in the exercise or guarantee of all rights that are effectively realized or not, in a place, from various social, economic, or other relationships, without exception. The territory for the realization of rights is the city, the metropolitan region in which it is inserted, and where its rights are assured or not.

The set of social, collective, and individual rights realized within the territory of the municipality and metropolitan region, in addition to the unique political, social, and economic dynamics of urban space production, becomes a process of metropolis constitution and presupposes the idea of breaking certain trends,

processes, or phenomena verified in urban dynamics. This, in turn, changes with unparalleled speed and adapts to an idea of reconstruction, deconstruction, and an attempt at socio-spatial reconstitution (Trindade Junior, 2016).

Santos (1993), in a study on the process of Brazilian urbanization and the use and occupation of land, provides us with important data to understand that the growth of cities, especially the Brazilian capitals, where metropolises and metropolitan regions originated, began with intense migratory movements from the countryside to the city in search of opportunities and better living conditions, housing, work and services, fleeing from a sometimes impoverished countryside, generating population growth together with spatial changes in the use and occupation of land and economic changes. In this context, the management of a metropolitan region, as an area of unified services, must take place with the allocation of services at metropolitan level and a single administration, which fully plans the area, coordinates and promotes works and activities of common interest to the region, establishing the appropriate priorities and standards to fully meet the needs of the populations concerned (Meirelles, 2008).

The metropolitan region has a very particular movement correlated to each constituent city and agents that compose it. Thus, defining the minimal existential of well-being in the right to the city is a particular value from region to region, from the dynamics of the social process that determines it, emphasizing the existence of another dimension—the social or collective—that is formed within the political community with which the individual shares memories, values, and future perspectives (Barcellos, 2002).

The achievable minimal existential of social rights could be the effectuation of metropolitan governance, through inter-federative governance, ensuring democratic principles of social participation in the spheres of planning and decision-making, as well as the parity of representation of entities, both from the public power and civil society, as a guideline of this governance system, in a way that there are no hierarchies, but rather an interest in well-being, in confronting and solving the collective problems that plague the region.

Pluralism becomes a characteristic of governance, as a result of the composition of different agents who can have degrees of direct or indirect influence on public policy definitions, characterized by the power to change the function of the State, by stimulating the implementation of participation instruments of sectors and segments in the public sphere, with the aim of seeking efficiency and effectiveness in the provision of public service (Matias-Pereira, 2010).

It is noteworthy that the State Constitution of Pará establishes popular participation as a principle of Public Administration (art. 20) and provides that the organization of collegiate bodies must obey parity between the representation of members of the public power and civil society, also imposing a two-year mandate and the renewal rule, which must be in the ratio of 1/3 in the first biennium and 2/3 in the second (art. 321).

In this context, cities, territories of rights realization, and their dynamics, as particular as they may be, reflect, directly or indirectly, in other cities of the re-

gion. From a brief reflection, the minimal existential in this complex scenario, with various actors and interests, approaches the postulate of minimal existential brought from the interpretation of the work "Spheres of Justice" by Michael Walzer, an American communitarian philosopher, for whom each social good—money, leisure, work, political power, education, among others—should be distributed in accordance with decisions and planning shared with the social well-being community, and the valued importance of each of these goods should be in harmony with the social meaning that the community itself attributes to the good (Barcellos, 2002).

Effectuating metropolitan governance, respecting the particularities of each region, privileges the exercise of fundamental rights and the minimal existential, as well as the guarantee of democracy, popular participation, culture, religious freedom, and freedom of movement. It is crucial, therefore, to implement transparency as a democratic corollary, to the extent that social rights should be aimed at in shared planning and the execution of regional urban policy.

Challenges and difficulties will always arise in such a complex scenario, in contrast to the attempt to ensure social rights, especially those of such a unifying nature of fundamentalities, such as well-being. It is important to realize that policies that aim for the good of the community are vertices of interests, fostering cooperation between actors of this dynamic—such as local governments and society—who believe they can obtain practical results in cooperated and coordinated actions, such as reducing costs in service provision; mutual technical support; sharing high fixed-cost expenses, dialogue, and production of more effective alternatives in facing challenges, optimization of their revenues and collections, avoiding fiscal wars that are self-destructive for metropolitan regions (Garson, 2009).

We cannot forget that the challenges are many, but the effectuation of metropolitan governance, in which the city/municipality is the protagonist of a collective construction with society, presents itself as a form of social minimal existential, in the face of the democratic structure that, in addition to the participation of the involved federative entities, privileges the composition of representatives of civil society.

The effectuation of cooperative and democratic metropolitan governance can be an exercise of minimal existential of social rights, which are based on constitutional principles such as citizenship, democracy, political participation, publicity, and effectiveness. It is emphasized, as a priority element for the realization of governance, vigilance regarding challenging elements of this novel dynamic of concretization, or practical effectuation, of social rights, such as the observance of the inter-federative correlation in the constant maturation of the cooperative federative pact and the need for flexibility and revision.

Concurrently, its importance is also recognized in the realm of fiscal justice, as an essential instrument for meeting public functions of common interest and guaranteeing well-being in the right to the city, in addition to the modernization and professionalization of Municipal Public Administrations, expanding their

political and managerial vision and not reducing their performance as if they were managerial islands of endless problems. It is important, still, to understand that, in respect to legitimate localisms and municipalisms, metropolitan regions are real spaces of interdependence in all social, political, economic, and legal aspects.

However, it is urgent to review, modernize, and provide transparency to mechanisms of public service provision, in all aspects, submitting the democratic instance of metropolitan governance as a minimal existential in the effectuation of social rights, through inter-federative governance that materializes in cooperation among federative entities that in turn share decision-making with civil society to achieve governance, governability, and govern-action in the context of Metropolitan Regions. For example, the digitization of society and the economy and the consolidation of digital instruments and practices is an opportunity for citizens to gain better access to services and greater digital efficiency for the public sector and citizens. This modernization process promotes a profound reformulation of the culture and provision of public services, based on all dimensions of the state's activities and integrated with the concerns and demands of modern society.

5. Final Consideration

The Metropolitan Region is the locus where fundamental rights are realized, and the field of spheres in the distribution of social goods, as well as the dynamics imprinted on its territoriality, do not respect borders, limits, or jurisdictions between the cities that comprise it. Its actors include federative entities, society, economic and social agents, who, based on the correlation of forces, reverberate throughout the region, preventing the distribution of social rights from being understood as an isolated constitutional, legal, and geographical corollary.

Reflecting on the metropolitan region and the minimal existential in the realization of fundamental social rights is to understand that, from its constitutional role as a municipality and federative entity, the institute follows a path of institutional fragility in addressing everyday problems and in the effectuation of social rights, such as health, education, leisure, security, environment, sanitation, transportation, mobility, and freedom. Thus, all fundamentalities are responsibilities, primarily, also of the municipalities, which, when inserted in the metropolitan region, generate another complicating factor with inter-federative interdependence, since the integration and interaction are such that the traditional federative pact alone is no longer sufficient to meet the challenge.

Therefore, the cooperative federative pact, arising with the Constitution of 1988, corroborates the empirical necessity of cooperation between cities in a metropolitan region, in the face of challenges of realizing fundamental rights, especially social rights.

The constitutional debate regarding metropolitan regions reached the Supreme Federal Court and guided the federative entities towards a path of more

pronounced cooperation, obliging them, in a way, to cooperate as a mechanism of mutual and democratic aid in overcoming the challenges of cities, which directly reflect on fundamental social rights.

Cooperation between federative entities and society is an irreversible path that encompasses a set of other fundamentalities realizable in the municipal territory; its precarization reflects in various aspects and on other federative entities, creating a vicious circle of problems. In this sense, shared and democratic metropolitan management, in terms of principles, criteria, and managerial instruments brought by the Metropolis Statute, aligned with the direction given by the STF in ADI 1842/RJ, is considered a first step towards the beginning of a virtuous circle.

This clear demand for the realization of social rights within cities in metropolitan regions leads to reflection on what the social minimal existential would be in a complex scenario where the fragility of any right directly affects the social right, in a scenario of multi-actors with diverse interests. Thus, democratic metropolitan governance, based on respect for the particularities of each entity of the federation, with shared and transparent power instances, materializes as one of the elements configuring a minimal existential of social rights within metropolitan regions.

Some initiatives have already proven relevant at the constitutional and legal level, in the realm of what should be; now, among the various challenges already posed in the guarantee of fundamental social rights and the minimal existential in the metropolitan region, the effectuation, implementation, and execution of the measures discussed and outlined by the Federal Constitution, the Supreme Court, and the Metropolis Statute are thus the pursuit of bringing reality closer to the presented ought-to-be.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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