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## Norms and Space. Understanding Public Space Regulation in the Tourist City

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**UNIVERSITÀ DEGLI STUDI DI MILANO**  
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**Sezione di Filosofia e Sociologia del Diritto**  
**“Renato Treves” International PhD Program in Law and Society**

**NORMS AND SPACE:**  
**Understanding Public Space Regulation in the Tourist City**

Lucas Pizzolatto Konzen

Milan

2013



**PhD Candidate:**

Lucas Pizzolatto Konzen

**Title of the Doctoral Dissertation:**

Norms and Space:

Understanding Public Space Regulation in the Tourist City

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**Milan**

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## List of Abbreviations and Acronyms

### *Acapulco*

ACEC	La Costera Business Association <i>Asociación de Comerciantes Establecidos en la Costera</i>
AHETA	Association of Hotels and Tourist Enterprises of Acapulco <i>Asociación de Hoteles y Empresas Turísticas de Acapulco</i>
CETEG	Guerrero's Union of Workers on the Public Education <i>Coordinadora Estatal de Trabajadores de la Educación en Guerrero</i>
CIIHA	Center for Research and Historical Information on Acapulco <i>Centro de Investigación e Información Histórica de Acapulco</i>
FONATUR	National Fund for Tourism Development <i>Fondo Nacional de Fomento al Turismo</i>
INEGI	National Institute of Statistics and Geography <i>Instituto Nacional de Estadística y Geografía</i>
PAN	National Action Party <i>Partido Acción Nacional</i>
PASP	Agency for the Promotion and Administration of Beach Services in Acapulco <i>Promotora y Administradora de los Servicios de Playa de Acapulco</i>
PRD	Party of the Democratic Revolution <i>Partido de la Revolución Democrática</i>
PRI	Institutional Revolutionary Party <i>Partido Revolucionario Institucional</i>
PROFEPA	Federal Environment Protection Agency <i>Procuraduría Federal de Protección al Ambiente</i>
PROTUR	Tourist Promotion Body of Guerrero <i>Promotora Turística de Guerrero</i>
RUA	United Restaurateurs of Acapulco <i>Restauranteros Unidos de Acapulco</i>
SECTUR	National Tourism Secretary <i>Secretaría de Turismo de México</i>
SEDESOL	National Social Development Secretary <i>Secretaría Nacional de Desarrollo Social</i>
SEMARNAT	National Environment and Natural Resources Secretary <i>Secretaría de Medio Ambiente y Recursos Naturales</i>
UNAM	National Autonomous University of Mexico <i>Universidad Nacional Autónoma de México</i>

### *San Sebastian*

EA	Basque Solidarity <i>Eusko Alkartasuna</i>
ETA	Basque Homeland and Freedom

EUSTAT	<i>Euskadi Ta Askatasuna</i> Basque Institute of Statistics <i>Instituto Vasco de Estadística / Euskal Estatistika Erakundea</i>
PNV	Basque Nationalist Party <i>Partido Nacionalista Vasco</i>
PP	People's Party <i>Partido Popular</i>
PSOE	Spanish Socialist Workers' Party <i>Partido Socialista Obrero Español</i>
STC	Constitutional Court of Spain <i>Tribunal Constitucional</i>
STS	Supreme Court of Spain <i>Tribunal Supremo</i>
TSJPV	High Court of the Basque Country <i>Tribunal Superior de Justicia del País Vasco</i>
UPV/EHU	University of the Basque Country <i>Universidad del País Vasco / Euskal Herriko Unibertsitatea</i>

### **Florianopolis**

ACIF	Commercial and Industrial Association of Florianopolis <i>Associação Comercial e Industrial de Florianópolis</i>
AMAPRACA	Neighbors and Friends of Celso Ramos Plaza Association <i>Associação de Moradores e Amigos da Praça Celso Ramos</i>
CDL	Florianopolis' Chamber of Shop Owners <i>Câmara dos Dirigentes Lojistas de Florianópolis</i>
COMCAP	City Improvement Company <i>Companhia de Melhoramentos da Capital</i>
EMBRATUR	Brazilian Institute of Tourism <i>Instituto Brasileiro de Turismo</i>
FLORAM	Municipal Foundation for the Environment <i>Fundação Municipal do Meio Ambiente</i>
IBGE	Brazilian Institute of Geography and Statistics <i>Instituto Brasileiro de Geografia e Estatística</i>
IPUF	Urban Planning Institute of Florianopolis <i>Instituto de Planejamento Urbano de Florianópolis</i>
MINCID	National Ministry of Cities <i>Ministério das Cidades</i>
MMA	National Environmental Ministry <i>Ministério do Meio Ambiente</i>
MPL	Free Pass Movement <i>Movimento Passe Livre</i>
MTUR	National Tourism Ministry <i>Ministério do Turismo</i>
PMDB	Brazilian Democratic Movement Party <i>Partido do Movimento Democrático Brasileiro</i>
PP	Progressive Party

	<i>Partido Progressista</i>
PSDB	Brazilian Social Democracy Party
	<i>Partido da Social Democracia Brasileira</i>
PT	Workers' Party
	<i>Partido dos Trabalhadores</i>
SANTUR	Santa Catarina's Tourist Promotion Agency
	<i>Santa Catarina Turismo</i>
SESP	Public Services Department
	<i>Secretaria Executiva de Serviços Públicos</i>
SHRBS	Association of Hotels, Restaurants, and Bars of Florianopolis
	<i>Sindicato de Hotéis, Restaurantes, Bares e Similares de Florianópolis</i>
SMDU	Urban Development Department
	<i>Secretaria Municipal de Desenvolvimento Urbano</i>
SPU	National Secretary of Patrimony
	<i>Secretaria do Patrimônio da União</i>
STF	Brazilian Supreme Court
	<i>Supremo Tribunal Federal</i>
STJ	Brazilian High Court of Justice
	<i>Superior Tribunal de Justiça</i>
TJSC	Santa Catarina's High Court of Justice
	<i>Tribunal de Justiça de Santa Catarina</i>
TRF4	Federal High Court of the 4 <sup>th</sup> Region
	<i>Tribunal Regional Federal da 4ª Região</i>
UFSC	Federal University of Santa Catarina
	<i>Universidade Federal de Santa Catarina</i>



## Abstract

How are public spaces regulated in tourist cities? In this doctoral dissertation I seek to answer this question by exploring the intersections between urban tourism and public space regulation. I argue that public space regulation substantially differs from the tourist to the non-tourist zone. This thesis contradicts the common belief that public space regulation may vary from city to city, but remains basically the same across the interior space of the city. It also makes possible to appreciate the extent to which the normative dimension of the production of space is related to patterns of uneven development and spatial injustices. Three main assertions corroborate this central proposition. First, I argue that there is a divide between the tourist zone and the rest of the city, which is closely related to the ways in which norms regulating public spaces are spatialized. Second, I suggest that the differences in terms of public space regulation exist because the public in the tourist zone is controlled by the state by means of mechanisms that discourage particular social groups' actions and discourses. The third assertion is that the differences in terms of regulation are also due to the priority given by the state to the tourist zone when allocating resources to the promotion of public uses.

The present study is designed as a multiple case study analysis. The evidence comes from the case studies of Acapulco (Mexico), San Sebastian (Spain), and Florianopolis (Brazil). The theoretical framework combines the theory of the production of space, the theory of property relations, the theory of norms, and the theory of tourist attractions. Part of the empirical data was assembled through extensive fieldwork, which included sessions of direct observation, semi-structured interviews, and collection of tourist materials. This was supplemented by data gathered from documents, newspaper reports, and contextual literature. The case studies were designed to have four thematic examples of conflict over public spaces embedded. Street vending and political activism are the themes that demonstrate the state's repressive role in controlling the public, while street maintenance and square redevelopment projects are themes discussed to point to the state's promotional role in allocating resources to the promotion of public uses.

This doctoral dissertation is divided into three parts. In Part I, I review the literature on public spaces showing the shortcomings of legal dogmatics and urban sociology approaches, and positioning my study within the discipline of sociology of law. I also discuss the main debates in the field of legal geography and elaborate on the theoretical framework of the present investigation. Finally, I justify the selection of cases and embedded themes to be studied, as well as explaining the methodological design. Part II presents the case studies of public space regulation in the cities of Acapulco, San Sebastian, and Florianopolis. In Part III, through a cross-case analysis, I show how norms regulating public spaces in tourist cities can be spatialized in terms of jurisdictional spaces, spatial zoning, and territorial spaces. In addition, I demonstrate that differences of regulation between the tourist zone and the non-tourist zone are constitutive of spaces that are described metaphorically as 'postcards of exclusion' and 'places off the map'.



*For my family, Afonso, Rose, Lúcio, and Luísa,  
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*E por falar em saudade*, I would like to say *muito obrigado* to my family and friends in Brazil. I have always counted on their encouragement to overcome the challenges of studying abroad. As promised, I am back!

*Far from being free, open or unrestricted, 'public' space is in fact highly controlled space. It is layered with rules, regulations, bylaws and practices which govern its occupation and use. Some of these rules are explicit and obvious, but most are well hidden. Many are revealed or evoked only by the absence and exclusion of those who might transgress them.*

***Stan Winford***



## **CHAPTER 1**

### **Introduction**

Think about a street, preferably one you have never been to before. Now imagine that the norms of conduct vary spatially in such a way that a perfectly permissible action on the sidewalk on one side of the street is unacceptable on the sidewalk on the opposite side of the street. If you find this hard to envision, just open your digital atlas and search for Joao Pessoa Avenue, which divides the neighboring cities of Rivera and Santana do Livramento along the border of Uruguay and Brazil. Also take a look at Pio XII Plaza, just a few steps away from Saint Peter's Square in Vatican City, the papal enclave in Rome. Or you might prefer to consider the much less notorious case of Azkuene Street, located in between the municipalities of San Sebastian and Pasaia, in Spain. Examples abound, as lawyers thinking in terms of jurisdictions and legal norms would readily acknowledge. Even official and formal definitions of law and space are sufficient to recognize that actions might be treated differently according to the place where they are performed, and that the physical proximity does not necessarily preclude normative distance.

For socio-legal scholars, however, the reasons why certain behavior is treated differently on the sidewalks on the two sides of a street might have nothing to do with legal norms and jurisdictions. Regardless of whether people live near national, provincial, or municipal borders, they are likely to experience the normative distance between places that are physically close to each other in their everyday lives. This may be due to the discrepancy between legal norms and legal practices. Legal norms that are assumed to be valid in a jurisdiction tend to be unevenly enforced or implemented by public administration agencies within its geographical limits. Accordingly, individuals change their perceptions about what is proper behavior in a particular place. This may also be due to the fact that the content of legal norms does not always coincide with that of social norms. Legal norms, which are expected to be enforced within a jurisdiction, might be dismissed due to variations between the social norms governing actions from one place to another. Finally, this may be simply because people move between places. The interactions between legal norms, legal practices, and social norms are unequivocally related to the spatiality that characterizes the social practice that they attempt to regulate.

In spite of what the streets insistently teach us, it is rarely pointed out that urban public spaces look so different in part because regulation

is not identical everywhere. Although it is usually accepted that norms may differ between countries and cities, it is often assumed the same set of norms apply to every street, sidewalk, and square in a given city. The dominant ways of seeing normative phenomena in the Western world are to a large extent blind to the dynamics of the norms regulating the routine of the places we share. This widespread belief that the regulation of public space is and should be monolithic across the interior space of the city must be critically interrogated, since it results in gross misunderstandings concerning the intersections between public space regulation and spatial injustices. Though we can observe a series of spatial injustices in contemporary urban public spaces, we tend to think that they are merely a product of the economic and political dimensions of the urbanization process, rather than the result of the normative dimension of the production of space. This study aims to make the intersections between public space regulation and spatial injustices in cities visible.

### ***1.1 The Changing Nature of Public Space***

From Syntagma Square in Athens to Zuccotti Park in New York City, from the stairs of Rio de Janeiro's shantytowns to the sidewalks of San Sebastian, from La Costera Avenue in Acapulco to the Galleria Vittorio Emanuele in Milan, from La Rambla in Barcelona to the beaches of Florianopolis, the places that we define as urban public spaces are constantly changing. As a matter of fact, public spaces are incredibly diverse. At any given moment, they can be regarded as either gathering places for political activism or simply open-air museums; entertainment venues for suburban residents or the workplace for street vendors; tourist attractions for international visitors or a safe way to get home. These are highly contested sites that make social conflict and social cohesion, richness and poverty, inclusion and exclusion visible simultaneously. In short, they are places with the potential for encouraging the encounter of social differences. Today, perhaps more than ever before, public spaces are of crucial importance to a myriad of aspects of our everyday lives.

In a globalized urban society, social conflicts still manifest on the local level in very concrete places such as plazas, boulevards, and streets. In recent decades, however, many observers have stated that the experience of public space that characterized much of the everyday life in the 19<sup>th</sup> century has come to an end. There has been effusive talk about the corrosion of traditional forms of street-level sociability that

once characterized the modern city. The former emphasis on use values is contrasted to the priority that is now given to the exchange values of the urban landscape. This is characterized by the proliferation of places such as shopping malls and gated communities, which are designed both for the sake of consumption and defense against strangers. Patterns of uneven urban development can no longer be explained only in terms of residential location and transportation costs. The uneven distribution of public investments from one neighborhood to another is a longstanding trend, but urban redevelopment projects have shown how quickly new centers and peripheries can be created. The social struggles denouncing spatial injustices in cities have been extended to claims over spaces situated far beyond what is typically seen as the private domain. As a whole, it seems that public spaces have actually undergone a series of structural transformations.

The changing nature of public spaces in contemporary urban centers has not gone unnoticed in the social sciences. Over the past two decades, the questioning of the 'public' character of public spaces has become a matter of central concern to urban studies. The scientific analysis of conflicts over public spaces is now of common interest to human geographers, anthropologists, political scientists, urban planners, and sociologists of law. The concerns that arise from this cross-disciplinary theme are related to the spatial turn in the social sciences, which can be traced back to somewhere between the late 1960s and the mid-1970s. The reassertion of space in critical social theory owes a great deal to the seminal work of groundbreaking thinkers such as Henri Lefebvre, Michel Foucault, David Harvey, Milton Santos, and Manuel Castells. They established the fundamental grounds of the growing body of interdisciplinary scholarship theorizing the production of space that can be found today. For urban sociologists, it has become commonplace to argue that public spaces are produced in a way that results in the exclusion of particular social groups' actions and discourses. Nonetheless, we still know very little about the role played by norms and normative action in this process.

## ***1.2 The Quest for Regulation***

The structural transformations affecting public spaces are unequivocally related to ways in which they have been regulated in different cities around the world. Indeed, there are impressive efforts being undertaken by government officials aimed to strengthen public space regulation, at least in certain city zones. The law is seen as a



strategic tool for saving public spaces from disorder and unruly individuals, and at the same time way for promoting an attractive image of the city. However, this normative agenda contrasts with urban social movements' agenda of the right to the city. These movements are promoting a politics of space committed to human rights in the city. Although lawyers and other legal professionals have played a role in crafting both the hegemonic and counter-hegemonic normative techniques that have been used to regulate public spaces, mainstream legal scholarship has not paid enough attention to the changing nature of public spaces.

Legal dogmatics, which is the mainstream form of legal knowledge in Latin countries of Europe and America, still relies on the concept of common use property to explain public space regulation. It is quite an ambivalent and seldom criticized legal category. The interpretations given to this key legal concept by the authors of legal treatises and handbooks have not changed substantially over the years. However, there are reasons to believe that today it ultimately serves an ideological function. This legal category was turned into an illusory discourse about equality over public spaces. One might suggest that the concept of common use property reflected the organization of urban space that emerged up to the first half of the 20<sup>th</sup> century. But now that this context has changed completely, the insufficiencies of this legal category clearly stand out. The concept of common use property does nothing but reinforce the idea that there are no differences in regulation between public spaces across the city.

There is now an emerging socio-legal literature, particularly in the field of legal geography, addressing the intersections between norms regulating public spaces and the exclusion of particular social actors. Nevertheless, conflicts over public spaces are frequently studied in isolation from the broader socio-economic context interfering in the production of the cities in which they are situated. Often missing in the debates over public space regulation, is an analysis of the ways in which norms and normative action influence the patterns of uneven development that affect the interior space of different kinds of cities. Norms perform an important role in the production of space and can be understood in relation to other social processes that take place in structuring the urbanization of cities. This justifies the interest of this doctoral dissertation in assessing the normativity behind the production of public spaces in a particular type of urban center, the tourist city.

### *1.3 The Rise of the Tourist City*

In urban studies, patterns of exclusion concerning public spaces have been explained in relation to the strategies of capital accumulation through urbanization reflecting broader changes that affect the capitalist city. In our globalized world, every major urban center is struggling with peer cities for a privileged position in the international division of labor and consumption. The role of local governments has fundamentally changed due to this inter-urban competition and the interior space of cities has been redeveloped to meet the demand for urban attractiveness. Cities are now assuming entrepreneurial practices in order to defeat their adversaries and encourage economic growth, new business opportunities, and employment generation. City governments are developing aggressive strategies aimed to attract direct private investment, bring money through tourism, and benefit from the financial resources distributed by public administration agencies at higher levels of government.

Urban tourism almost always appears as a possible segment for innovation. Among the various strategies of space production, the conversion of cities into tourist destinations is perhaps one of the most contradictory. Indeed, to a certain extent all major cities now market themselves as tourist cities. The concept of tourist city is the binding concept that holds together the case studies presented in this dissertation. The idea that the creation of tourist attractions, if necessary through massive public investment, will generate socioeconomic development is one of the biggest accepted truths of our time in terms of the politics of space. The tourist model of development is marketed as if no negative consequences could result from it. Instead, the tourist model would have only positive outcomes in terms of strengthening social cohesion, improving the quality of life, and even helping to protect the natural environment and preserve the historical heritage of the city. But the benefits generated by the expansion of the tourist trade are not equal among the different social groups that compose a tourist city.

The production of the tourist city is a process of changes that has profound implications for public space management. On the one hand, the dynamics of mass tourism imply a revival of the interest in public spaces. On the other hand, this very same interest produces new and reinforces old patterns of exclusion in respect to public spaces. The regulation of places such as plazas, parks, streets, and beaches suddenly becomes a matter of concern in cities where tourism has been at the center of the process of capitalist accumulation for decades, as much as

in cities that are newcomers to the tourist business. Tourist cities have been successfully marketing a more mundane but not less attractive experience of public space – one that visitors are ready to pay for with great pleasure and satisfaction. Once a few urban spaces are converted into tourist attractions their meanings to social life change in many respects, and this affects the expectations of both frequent and eventual users. As a result, tourists and residents start to experience public spaces in significantly different ways.

#### ***1.4 The Research Question***

The research question that guides the present study is the following: How are public spaces regulated in tourist cities? I seek to answer this overall research question by means of case studies regarding the intersections between urban tourism and public space regulation. The case studies explore the following set of sub-questions: (a) Are patterns of uneven urban development also observable with regards to public spaces in tourist cities? (b) How has the tourist/non-tourist divide been produced historically and how it is reproduced daily? (c) Is this a social process mediated by norms, and if this is the case, what type of norms? (d) How is the access of different groups of users to public space controlled, who benefits from the exclusion of particular social groups' actions and discourses, and who fights back and makes claims for inclusion? (e) What strategies for the promotion of public uses have been implemented, and do they target patterns of uneven development, or simply reinforce them?

This dissertation demonstrates that public space regulation in tourist cities substantially differs from the tourist zone to the non-tourist zone. This central proposition has broad implications for the debates over the politics of space. This thesis contradicts the common belief that public space regulation may vary from city to city, but remains basically the same across the interior space of the city. It also makes possible to appreciate the extent to which the normative dimension of the production of space is related to patterns of uneven development and spatial injustices. Three main assertions corroborate this central proposition. First, I argue that there is a divide between the tourist zone and the rest of the city, since some places are marked as tourist attractions while others are kept outside of the tourist market. This divide is closely related to the ways in which norms regulating public spaces are spatialized. Second, I suggest that the differences in terms of

public space regulation exist because the public in the tourist zone is controlled by the state by means of mechanisms that discourage particular social groups' actions and discourses. The third assertion is that the differences in terms of regulation are also due to the priority given by the state to the tourist zone when allocating resources to the promotion of public uses across the city.

The evidence to be discussed in this dissertation motivating these three main assertions comes from a set of individual case studies. The tourist cities studied as cases are Acapulco (Mexico), San Sebastian (Spain), and Florianopolis (Brazil). They can all be characterized as major resort cities, that is, urban centers whose urbanization process was intentionally oriented towards building a tourist destination since a very early stage. The case studies were also deliberately designed to have a set of four thematic examples of conflict over public spaces embedded. Street vending and political activism are the themes that demonstrate the state's repressive role in controlling the public, while street maintenance and square redevelopment projects are themes discussed to point to the state's promotional role in allocating resources to the promotion of public uses. Since this research is designed as a multiple case study analysis, evidence comes from cross-case interpretation of the most important findings from each one of the individual case studies. Nevertheless, comparing the cases is not among the aims of the present study. The cases that were selected for this project involve very different empirical settings offering great contextual diversity to explore issues concerning public space regulation.

The same research design was replicated in the individual case studies to guide the collection and analysis of the qualitative data. This research design included a set of theories and methods. The theoretical framework combined theories from sociology of law, urban sociology, and sociology of tourism. In particular, the case studies relied on the theory of the production of space, the theory of property relations, the theory of norms, and the theory of tourist attractions. The methodological strategy included a range of data collection and analysis techniques. An important part of the empirical data was assembled through extensive fieldwork carried out in the cities of Acapulco, San Sebastian, and Florianopolis, which included sessions of direct observation of public spaces, semi-structured interviews, and collection of tourist materials. Data from these sources was supplemented by information gathered from documents, newspaper reports, and contextual literature.

## *1.5 The Plan of the Present Study*

This dissertation is divided into three parts with the same number of chapters each. Part I explains the epistemological, theoretical, and methodological cornerstones that inform the socio-legal approach to public space that is advanced in the present study. In Chapter 2, I review the literature on public spaces with the intention of showing the shortcomings of legal dogmatics and urban sociology approaches, and positioning my study of public space regulation within the discipline of sociology of law. In Chapter 3, I discuss the main theoretical debates in the field of legal geography, relating them to the conceptual tools used in the present investigation, and elaborating on the theoretical framework. In Chapter 4, I justify the selection of cases and embedded themes to be studied, as well as explaining the methodological design that guided the collection of empirical data. The overall discussion serves to present the theoretical and methodological design common to the individual case studies.

Part II covers the individual case studies over public space regulation in tourist cities. The case studies of Acapulco, San Sebastian, and Florianopolis are presented separately, but structured in a very similar way. The same set of research questions apply to all of them. Chapter 5 is the case study of public space regulation in Acapulco, Chapter 6 studies the case of San Sebastian, and Chapter 7 reports on the case of Florianopolis. This reporting strategy is twofold. On the one hand, it encourages a close reading of the cases with an emphasis on the unique context that characterizes each one of the tourist cities being studied. On the other hand, it facilitates the task of highlighting the points of contact between the findings that are drawn from the individual case studies.

Part III consists of a cross-case analysis combining the most important findings from each of the case studies. In Chapter 8, I show how norms regulating public spaces in tourist cities can be spatialized in terms of jurisdictional spaces, spatial zoning, and territorial spaces. In Chapter 9, I explore how the differences of regulation between the tourist zone and the non-tourist zone are constitutive of spaces that are described metaphorically as ‘postcards of exclusion’. In Chapter 10, I demonstrate that differences of regulation are also constitutive of spaces that can be metaphorically called ‘places off the map’. Therefore, in this concluding analysis, I draw a set of empirically grounded and theoretically informed assertions about public space regulation and its implications for patterns of uneven development and spatial injustices in

tourist cities from the case studies. Although I do not assume that such propositions are generalizable, I contend that they are potentially useful for explaining how public spaces are regulated in many other tourist cities beyond Acapulco, San Sebastian, and Florianopolis.



## **PART I**

# **PUBLIC SPACES THROUGH A SOCIO-LEGAL LENS: THEORIES AND METHODS**





## CHAPTER 2

### **The Functional Transformation of Common Use Property: An Epistemological Dialogue**

How is it possible that a given legal category can remain unchanged over a long period of time, and yet its socioeconomic effects undergo a profound transformation? This question, raised by Karl Renner, one of the founders of sociology of law, still resounds today. The relationship between law and social change is at the core of his book *The Institutions of Private Law and their Social Function* (Renner, 1949), in which private property is taken as the most prominent example of the functional transformation of a legal category that remained stable over time. Renner pointed out that there was a discrepancy between the static content of the category of private property and its dynamic socioeconomic effects. He argued that the social context of the 18<sup>th</sup> century Europe, when this category was incorporated into the legal discourse, changed completely with the development of industrial capitalism. The object of private property was at the same time the individual's dwelling and workplace, and the norm protecting the absolute control over a thing served the function of safeguarding a livelihood to the owner and his family. But with industrial capitalism the means of production were separated from the producers, that is, the property object was turned into capital. As a result, this legal category began to serve the ideological function of creating an illusion that everyone has equal freedom to own property privately.

In this chapter, I take inspiration from Renner's seminal work to problematize another legal category: common use property. It has been used as a key legal category in the regulation of public spaces. Similar to private property at the time of Renner's writings, common use property remains a relatively stable legal category. However, there are many reasons to believe that such a category has also undergone a significant functional transformation over time. I argue that nowadays the category of common use property also ultimately serves the ideological function of creating an illusion. It may be claimed that the socioeconomic consequences of this legal category were suited to the organization of urban space present until the first half of the 20<sup>th</sup> century, in European cities in particular. Nevertheless, there is substantial evidence suggesting that this social context has almost completely collapsed over the last six decades, especially in Latin American cities. Claiming that everyone in contemporary cities is equal

in respect to the use of public spaces such as plazas, streets, sidewalks, and parks, is nothing more than a myth.

My analysis also draws from the theory of scientific paradigms (Kuhn, 1970). I consider that it undermines the positivist view of cumulative knowledge and may also be taken as a theoretical framework for understanding practices in the field of social sciences. According to the theory of paradigms, sciences are social constructs, because what is considered to be scientific knowledge depends upon the existence of shared paradigms. A scientific paradigm is defined as “the entire constellation of beliefs, values, techniques, and so on shared by the members of a given community” (Kuhn, 1970: 175). The term scientific community refers to any group of scientists, practitioners of the same specialty, who have undergone similar training, and share at least a relative inter-subjective agreement around what constitutes the normal model of production of scientific knowledge in their respective area (Kuhn, 1970: 177-178). The theory of paradigms is concerned with explaining paradigm crises and paradigm shifts over time, as well as the misunderstandings in communication across different disciplinary fields.

According to Kuhn’s theory, there is a nebulous and turbulent period of paradigmatic transition before a paradigm shift succeeds in a given scientific field. This occurs when “an older paradigm is replaced in whole or in part by an incompatible new one” (Kuhn, 1970: 92). As a result, scientific communities, disciplinary fields, and even the global notion of science may change. Paradigm shifts, however, are rarely linear or evolutionary. A paradigm shift typically begins when a small number of the members of a given scientific community realize that the ruling paradigm has ceased to work properly. Unsatisfied with the available answers to address questions of crucial importance, they start to search for solutions beyond the boundaries of normal science, and the paradigm crisis arises. The emerging paradigms compete for support from community members and this contest for hegemony may lead to a paradigm shift.

This chapter provides a critical perspective on the construction of mainstream scientific discourses around the stability of legal categories and their changing socioeconomic effects. In section 2.1, I look at mainstream legal science and explore the approach of legal dogmatics to public spaces. Common use property is analyzed as a key legal category that remains unchanged and serves to disguise social conflicts over public spaces, taking for granted that all people are equal in respect to them. In section 2.2, I review mainstream urban sociology literature and argue that the socio-spatial approach to public spaces, on the contrary,

makes it evident that there have been profound socioeconomic transformations. Over the last decades, public spaces have been produced in a way that results in the exclusion of particular social groups' actions and discourses. Nevertheless, while the socio-spatial approach stresses the discrepancy between legal discourse and socioeconomic effects, it does not advance a specific and detailed analysis of the interrelations between law and the production of space. Hence, I suspect that these two approaches function as 'epistemological cages' preventing major progress in the understanding of how public space regulation actually works in contemporary cities.

## ***2.1 Legal Science and the Dogmatic Approach***

In Latin countries of Europe and America,<sup>1</sup> legal dogmatics has been the mainstream form of legal knowledge since the mid-19<sup>th</sup> century.<sup>2</sup> Despite intense criticism over the last decades,<sup>3</sup> the paradigm of legal dogmatics remains dominant.<sup>4</sup> The relative agreement around the validity of legal dogmatics is central to the scientific community composed of jurists, who are all those officially trained at law schools and authorized to practice law. Jurists for the most part have internalized a constellation of beliefs, values, and techniques, which establish what legal science is about, who belongs to the scientific community, and the roles of its members. For instance, legal monism is one of the prevalent beliefs amongst the jurist community. Law is reduced to the legal norms that come from the state's legislative, judicial, and administrative decisions, which are valid in a given jurisdiction and period of time. Another common belief is that the jurists' scientific task consists of describing and interpreting this kind of norms. Legal science is thus

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<sup>1</sup> Pérez-Perdomo and Friedman coined this expression, pointing out, "it is generally agreed that the Latin countries of Europe and America, as a group, are part of one of the world's great legal traditions" (2003:1). Countries such as Brazil, Mexico, Spain, and Italy belong to this group. Although each has its unique legal culture, they have much in common. They are tied to the Civil Law tradition and share the inheritance of Roman law, the primacy of legislation, and the experience of codification (Pérez-Perdomo & Friedman, 2003: 1-2, 16-17).

<sup>2</sup> On the genesis of legal dogmatics, closely connected to the rise of the German Historical School in the early 19<sup>th</sup> century, and its main features, see, among others, Ferraz Jr., (1980), Zuleta Puceiro (1981), Andrade (2003), and Sandström (2005).

<sup>3</sup> The profusion since the 1970s of trends of legal thought in Latin America and Latin Europe that are critical towards legal dogmatics reflects the crisis of the dominant paradigm in legal science. For an overview of these trends, see Wolkmer (2012).

<sup>4</sup> Legal scholars recognize that legal dogmatics is the dominant paradigm of production of scientific knowledge about law. See, among many others, the works of Zuleta Puceiro (1981), Wróblewski (1987), Faria (1988), Hagen (1995), Aarnio (1997), and Andrade (2003).

about building a closed, consistent, and autonomous system of legal norms, which represents the so-called legal order of a given state. This task of systematizing legal norms requires the previous elaboration of a set of key legal concepts, such as the category of common use property.

The legal categories formulated according to the paradigm of legal dogmatics are found in legal treatises and handbooks. Mainstream legal scholarship is generally understood as doctrinal studies of law that give a picture of what the legal order provides about a particular matter. The declared purpose of legal doctrine is to establish the terms for future decision-making. In the division of labor intrinsic to the paradigm of legal dogmatics, law professors are the protagonists in elaborating this body of knowledge, while professionals such as judges have the task of applying it to the resolution of real-life disputes, even when the same person plays both roles. Legal science is seen as a technology that serves the practical purpose of enabling certainty and predictability in the resolution of judicial disputes. Answers capable of balancing antagonisms and harmonizing interests are expected from the analysis of the legal order if the canons of legal dogmatics are followed properly. Therefore, legal science provides the conditions for the decidability of the cases brought to courts (see Luhmann, 1978; Ferraz Jr., 1980).

Legal dogmatics does not only refer to a general paradigm in legal science, but also shapes its disciplinary branches.<sup>5</sup> Civil law, administrative law, and urban law are the main branches of legal science dealing with the systematization of the set of norms of the legal order that governs urban spaces. Civil law and administrative law are foundational branches of legal dogmatics. Urban law on the other hand, has been evolving since the second half of the 20<sup>th</sup> century in Latin countries of Europe and America.<sup>6</sup> Its appearance as a branch of legal science originates from the enactment of urban planning legislation in the post-Second World War in countries such as Spain, Italy, France, and Brazil. Jurists have seen urban law as a response to the need for systematizing this entirely new body of legal norms. Although innovative in its substance, urban law has actually drawn many of its categories from civil law and administrative law. In what follows, I

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<sup>5</sup> The disciplinary branches of legal science are rooted in the paradigm of legal dogmatics from which they directly depend, and for this reason they only have a limited degree of autonomy (Andrade, 2003: 20-21). Sub-paradigmatic crises within branches, as well as the competition between them, do not necessarily put the whole paradigm of legal dogmatics in doubt.

<sup>6</sup> Urban law is known in Portuguese as *direito urbanístico*, in Spanish as *derecho urbanístico*, in Italian as *diritto urbanistico*, and in French as *droit de l'urbanisme*.

critically analyze the key categories and the functionality of the discourse of legal dogmatics in relation to public spaces.

### *2.1.1 Common Use Property as a Key Legal Category*

Because the paradigm of legal dogmatics works mainly at the scale of the nation state, I decided to illustrate this analysis with the particular case of Brazilian legal science and its disciplinary branches of civil, administrative, and urban law. In order to do so, I selected a small sample of very well-known and widely accessible legal treatises and handbooks which are often used both at law schools and in everyday professional practice in Brazil. This sample consists of six legal treatises and handbooks (Meirelles, 2000; 2008; Mello, 2000; Gasparini, 2009; Di Pietro, 2009; Silva, 2008), which have been continuously reedited over a long period of time by Brazilian publishing houses specialized in doctrinal studies of law. They can be considered representative of the mainstream legal thought in Brazil. I found that these legal treatises and handbooks largely rely on the category of common use property. According to these scholarly works, everybody is formally equal in respect to common use property. Thus legal dogmatics masks social conflicts and legitimatizes social inequalities in public spaces.

The legal treatises and handbooks selected for analysis have adopted four legal categories, taken from the *Brazilian Civil Code*,<sup>7</sup> to systematize norms related to urban spaces. Private property (in Portuguese, *propriedade privada*) is the main category, defined as the right to the exclusive use, enjoyment, and disposal of a thing, which can be held individually by natural and legal persons, as well as jointly by groups of private persons.<sup>8</sup> If for any reason a given real estate property cannot be considered private property, it is within the public domain (*bens públicos*),<sup>9</sup> and thus belongs to one of the state entities (the federal union, a state, or a municipality).<sup>10</sup> Public domain property is further classified into three categories. Common use property (*bens de uso comum do povo*) comprises places dedicated to the collective enjoyment

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<sup>7</sup> The *Brazilian Civil Code* was enacted in 2002, replacing an older code from 1916. However, the legal categories at stake in this analysis already appeared in the former code.

<sup>8</sup> Art. 1.228, *Brazilian Civil Code*.

<sup>9</sup> Concerning the property of public domain, the *Brazilian Civil Code* establishes a ban on acquisition of property by adverse possession (Art. 102) and restrictions on alienability (Arts. 100 and 101). However, under certain circumstances, state entities are allowed to authorize the private use of public domain property and convert property from one category to another.

<sup>10</sup> Art. 98, *Brazilian Civil Code*.

of the people such as squares, parks, beaches, and streets. Special use property (*bens de uso especial*) includes land and buildings dedicated to the provision of public services. Finally, patrimonial property of the state (*bens dominicais*) refers to that which is held by state entities with an exclusive right to use, enjoyment, and disposal.<sup>11</sup>

Although private property undoubtedly is the most relevant category in mainstream legal science regarding urban space in general, the category of common use property performs a key function regarding public spaces. This is because places such as squares, parks, beaches, and streets usually fall under this legal category. The *Brazilian Civil Code* and the civil law doctrine however did not develop the common use property category any further. Instead, administrative law scholars have taken it upon themselves to give it content, based on a long-standing division of labor between these two disciplinary branches of legal science. In addition, administrative law treatises and handbooks have also advanced two other conceptual developments. First, they distinguish between normal uses (*usos normais*) and abnormal uses (*usos anormais*) of common use property. Second, they associate common use property to another complementary legal category, the police power of the state (*poder de polícia*). Table 1 presents direct quotes of typical statements made by Brazilian administrative law scholars pertaining to the content of such legal categories.

Administrative law doctrine highlights that everyone has the right to access common use property. Every individual is considered equal to other users. Moreover, it is claimed that users are not required to ask for permission from common use property holders. It is also stated that users have the freedom to benefit from common use property without paying for it. Nevertheless, administrative law scholars claim that users must be respectful of concurrent users' rights and must always observe the so-called normal use, that is, the principal destination of common use property. This means that not all possible kinds of uses are allowed. Yet, what is considered to be a normal use depends either on the 'natural' destination of common use property or from decisional acts taken at the level of the state entity to which it belongs. If users want to engage in abnormal uses, they are required to ask for discretionary authorization from state's authorities, and authorization may be granted only if a given abnormal use is regarded as compatible with the normal use. Every individual who fails to obtain authorization may be considered an abusive or anti-social user. The enforcement of normal

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<sup>11</sup> Art. 99, *Brazilian Civil Code*.

use is connected to the state's police power. It is the state's prerogative to impose restrictions, prohibitions, and sanctions upon individuals' behavior on behalf of the collective. Thus, significant limits may actually be imposed upon one's ability to access common use property.

treatises/ categories	common use property	normal vs. abnormal uses	police power of the state
<b>Meirelles</b> (2000: 122-124, 473-474; 2008: 314, my translation)	"Common use is recognized as the use of the collectivity in general over public property, without discrimination of users and the need for special authorization. [...] It neither requires any special qualification or consent, nor admits limited and remunerated frequency, because this would be an offense to the individual's right to usufruct common use property without any sort of constraints [...]. Users are anonymous, undetermined [...] Everyone is equal in respect to common use property."	"[...] The regime of public liberties which we live by assures the normal use of individual rights, but neither authorizes abuses nor allows the anti-social exercise of freedoms. [...] Freedoms entail limitations and the rights ask for conditions to favor the social welfare [...] Only general regulations on public order, safety, hygiene, health, moral and good manners are admitted, without specifying persons or social categories."	"It is the administration's role to place conditions restricting the use and enjoyment of property and individual freedoms for the benefit of the collective and of the state. [...] It is the administration's mechanism to counter the misuse of individual freedoms"; "[It is the power of] disciplining and policing the conduct of the public of users, [...] aiming to assure the conservation of property and the possibility of its normal use, both by individuals and the collectivity."
<b>Mello</b> (2000: 667-728, 739-759, my translation)	"It serves to be used indistinctively by everyone, in egalitarian and harmonious concurrence with others. [...] For this common use there is no need for any authorizing act and there is no need of previous communication of the intention of using common use property to the authorities. [...] Common use property may come either from its natural destination, as is the case with the sea, rivers, streets, roads, and plazas, as well as from acts that determine that special use property or patrimonial property of the state shall be dedicated to public use."	"[The use shall occurs] in accordance with the destination of the property, [...] shall happen in conformity with general norms, applicable to all. [The aim of these norms is] to prevent damages to the collectivity, which could potentially result from the uncontained exercise of freedoms. [...] Limits shall be established taking into account the purpose of making freedoms harmonious with the interests of the collectivity."	"It is negative in the sense that through it the public administration, as a rule, does not require an action from the person, but an abstention [...] The predominant idea is the prohibition of a behavior. [...] Thus, the administrative action is characterized by the repression of anti-social behavior."
<b>Gasparini</b> (2009: 126-217, 884, 925, my translation)	"[Access] is allowed to any human being, without distinction [...] Nothing is required in terms of authorization or permission, use is not charged at least in principle [...] This use [...] is marked by the freedom, equality of all users, and absence of temporal limitations. [...] All users find themselves in the same situation of equality, being treated, therefore, without preference. Moreover, it is without pre-established terms and limits."	"[The use and enjoyment of common use property] must be in conformity with the intended purpose of the place, [...] must be normal."	"The exercise of these freedoms [...] should be compatible with the social welfare and the interests of the state [...] this conditioning of the freedom of the people to the social and public interests is achieved though police power. [This power is about] preventing the occurrence of activities associated with undesirable social effects."



Di Pietro  
(2009: 671,  
685-686, my  
translation)

"By force of law or by force of nature common use property can be utilized by everyone in equal conditions, without the requirement of individualized consent from the administration."

"Normal use is that which is exercised in conformity with the main destination of common use property; and abnormal use is that with different or accessorial aims, sometimes in contradiction with the main destination. [...] Abnormal uses depend on discretionary authorization and shall only be allowed to the extent that they are compatible with the principal function."

"It comprises the regulation of the use, the control and enforcement of coercive measures, [directed to] the conservation of public property (repressing and punishing any sort of harmful action from the part of the public) [and to] the protection of the users (assuring the usufruct of the property in accordance with its normal destination)."

**Table 1 – Dogmatic discourses over common use property in Brazil**  
**Source: elaborated by the author, based on legal treatises and handbooks**

Urban law scholars also incorporated categories such as common use property, normal use, and the police power of the state into their doctrinal discourses. Yet they thought that these categories were insufficient to deal with the specific task of systematizing legal norms regarding urban space. Influenced by conceptual developments in the field of urban planning, urban law scholars such as Silva (2008) and Meirelles (2008) advanced two important additional categories pertaining to public space: alignment (*alinhamento*) and urban function (*função urbana*). Alignment refers to the act of providing a concrete, physical line of demarcation between the boundaries of spaces that are considered common use property and the spaces that are considered private property, special use property, or patrimonial property of the state. Urban law scholars have defined alignment as "the divide between the public domain and the private property, preventing the private utilization of any area that surpasses this fixed line" (Meirelles, 2008: 447, my translation). It is "the boundary line between privately-owned lots and common use property", whose delineation "is a function of urban planning" (Silva, 2008: 211-212, my translation).

The criteria for alignment are established by binding norms found in urban planning legislation, such as the city's master plan and administrative zoning. Moreover, the urban function of a particular place is also defined by norms of this kind, according to urban law scholars. For instance, a well-known legal treatise claims that, "urban land is destined for the fulfillment of urban functions of dwelling, work, circulation, and recreation" (Silva, 2008: 243, my translation). Private spaces are set aside for dwelling and work by urban planning legislation, while public spaces are assigned for recreation and circulation. That is, urban streets "are common use property, [...] planned for the fulfillment

of the urban function of circulation”, urban parks and plazas are common use property “dedicated to stay, relaxation, and leisure” and occasionally for “civic and religious activities” (Silva, 2008: 204-219, my translation). As a result, from the perspective of urban law, the normal use of common use property located in urban settings is limited to a number of urban functions, connected mainly to behaviors which involve circulation, recreation, and in certain cases also religious and civic activities.

The public/private dichotomy is central to the dogmatic approach to public spaces. On the one hand, urban spaces in general are considered to be mainly private spaces – land and buildings that belong to individuals, groups of natural and legal persons, or the state entities. On the other hand, there are residual spaces open to the public, strictly separated from private spaces, such as streets, squares, and parks, which consist of common use property. Access to common use property should be allowed freely, equally, and without discrimination because the status of user is granted to every member of the collectivity. Such a legal category emerged from the distinction made by civil law doctrine between types of property, but its meaning was determined by administrative law scholars, who supplemented it with the concepts of normal use and police power of the state. Urban law scholars also contributed, by introducing the categories of alignment and urban function. Therefore, equal rights to common use property are considered dependent upon conformity to the uses defined as normal, which are connected to the urban functions of recreation and circulation. State authorities should not only regulate, control, and repress abusive and anti-social behavior, but also intervene in the physical organization of public spaces – such as design, furniture, maintenance, and so on – in order to make sure that the normal uses are observed.

### *2.1.2 The Functionality of the Dogmatic Approach*

Although the previous section illustrated the particular case of mainstream Brazilian legal science, similar findings can be obtained from the analysis of other cases in Latin countries of Europe and America, such as Mexico and Spain.<sup>12</sup> This is because the coexistence of

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<sup>12</sup> Legal science is not monolithic. In the case of Brazil, critical legal scholars have been challenging the discourses of mainstream legal science in different disciplinary branches. The new Brazilian urban law, a movement represented by legal scholars such as Edésio Fernandes and Betânia Alfonsin, is a clear example (see Fernandes & Alfonsin, 2003; 2006).

private and common use property as categories of mainstream legal science for systematizing norms governing urban spaces reflects a more general conceptual framework, which is also often used in economics, political science, and political philosophy when analyzing property. This classic theoretical model distinguishes between four significant types of property regimes: (a) private property, (b) communal property, (c) state property, and (d) common use property (open access property) (see von Benda-Beckmann, von Benda-Beckmann & Wiber, 2006). According to this model, private and public regimes are at the extreme ends of this continuum. Private property is defined as the social relationship in which an individual (the owner) is granted the power to exclude other individuals (non-owners) from the use and benefits of a thing (MacPherson, 1978: 5). At the other end, common use property is regarded as a regime of non-property or an unregulated type of regime that is the antithesis of private property. Common use property suggests the impossibility of an individual gaining the right to exclude others from using and benefiting from a thing. That is, it is taken for granted that the privatization of things cannot take place under the common use property regime.

A hierarchy among the four different types of property regimes is also embedded in the classic model. The private-public continuum actually reflects Western, liberal values. The private property regime is considered the only one capable of providing a truly efficient use of things of economic value because it is the one that follows market logic. The common use property regime, on the other hand, is not considered a desirable regime because it encourages abusive individual use of things of economic value, which may eventually lead to the destruction of the economic value of a thing, the 'tragedy of the commons' situation (Benda-Beckmann et al., 2006: 01-14). Thus, the private property regime should prevail and common use property should be residual and heavily regulated by the state. Regarding urban spaces, the private property regime would guarantee spaces of exclusion protected by the state, whereas the common use property regime would necessarily mean the reverse, that is, spaces of inclusion protected by the state. The roles played by the state in determining normal uses, exercising police power, and managing common use property would not lead to social inequalities. Instead, the state would act as a guarantor of a sort of golden rule of the social coexistence, according to which everyone can enjoy his or her individual freedoms to the maximum extent, limited only to reasonable compatibility with the respect to the rights of others to do the same.

The dogmatic approach supports the idea that there can be only cohesion, harmony, and absence of conflicts in contemporary public spaces. Social conflicts are ultimately transformed into individual disputes. One therefore cannot speak about social conflicts properly, but only about conflicts arising from the deviant behavior of some members of the collective, a minority that chose to exercise individual freedom in an abusive and antisocial manner. Such behavior would be detrimental to society, because it risks the normal uses and the urban functions of public spaces. The discourse of legal dogmatics leads to the illusion of the dissolution of the social contradictions between the plurality of classes and groups in society, at the exact moment in which contradictions are fragmented, dispersed, and finally turned into atomized legal disputes. Legal dogmatics does not eliminate conflicts by creating harmony where there was disharmony, but hides them at the conceptual level (Warat, 1979: 137). The possibility of social conflict is simply denied, and a situation of static and eternal equality, abstracted from the spatial and temporal concreteness of everyday life, is taken for granted. This is the most notable aspect of the functionality of common use property as a legal category.

The reduction of social conflicts to inter-individual legal disputes through the formulation of the common use property category is an essential element of the dominant legal discourse over public spaces. However, its functionality in the sense of creating conditions for the decision of disputes lies in complementary categories. Determining what constitutes abusive use and to what extent the exercise of individual freedoms becomes antisocial is a task that the common use property category cannot accomplish by itself. It is silent in this respect and fails to point out the criteria necessary to resolve individual judicial disputes. Criteria capable of filling the gaps left by the category of common use property are required to meet the goals of certainty and predictability. Urban law scholars have provided for these criteria concerning public spaces, by claiming that common use property should perform normal uses tied to the urban functions of recreation (leisure) and circulation (transport).

In the first few pages of urban law treatises and handbooks, there is a distinction between urbanization as a social process of spontaneous and uncontrolled growth of human settlements and urban planning as a form of governmental intervention aimed to order city spaces (see, for instance, Silva, 2008; Meirelles, 2008). The urbanization process is seen as the cause of various urban problems, while urban planning is seen as the solution. Urban planning is defined as “the set of state measures

destined to organize living spaces, in order to provide better conditions of life” (Meirelles, 2008: 522, my translation). Legal norms are considered essential to urban planning, since the success of state interventions depends to a great extent upon the binding content of a city’s master plan and zoning mechanisms. Such legal norms are seen as “a method to change reality, to transpose what will be the future’s reality to what is today’s reality” (Silva, 2008: 53, my translation). It is as if urban planning legislation, which is included within the governmental measures to provide solutions to the problems caused by the urbanization process, was not a constitutive part of this very same process.

According to the mainstream legal discourse, urban law is subordinate to urban planning. Indeed, urban law absorbed the majority of urban planning’s ideological constructions without much critical reflection, such as the case of the category of urban function. Urban law scholars not only reproduce the discourse concerning the goal of segregating urban functions (dwelling, work, circulation, and recreation), but also equate these functions to the normal use category. The source of the discourses over the functionalization of urban spaces is no other than the *Athens Charter*, published by the urban planner Le Corbusier in 1941. This repository of recommendations adopted during the International Congress of Modern Architecture is a manifesto of the aspirations of modern urban planning. It provides a rigid model for cities, shaped by scientifically established principles and techniques of urban planning, supposedly capable of ensuring the healthy and orderly coexistence of individuals in the city.

The ideological construction, in the Marxist sense of unconscious expression of ideas and beliefs underlying a particular version of reality, becomes evident. The dogmatic concept of common use property remains unchanged as an essential element of legal discourse, regardless of the ongoing contractions, conflicts, and struggles in respect to public spaces. The jurists’ value judgments regarding the content of this legal category remain obscured to the extent to which the concept itself is presented as a purely normative construction of legal dogmatics. The mainstream paradigm of legal dogmatics, notwithstanding the remarkable inconsistencies and shortcomings embedded in its discourses, proclaims itself as a logical, coherent, and complete form of scientific knowledge. The alienating rationality of legal dogmatics colonizes the imagination of jurists and leads to very relative and questionable concepts, or “legal mythologies” (Warat, 1979: 136; Grossi, 2001, my translation), such as the category of common use

property. Serving the function of creating the illusion that everyone is inherently equal before common use property, the dogmatic approach to public spaces offers a powerful ideological contribution to social conformity and inequality.

## ***2.2 Urban Sociology and the Socio-spatial Approach***

Some scientific discourses considered external to the scope of legal science are occasionally and selectively appropriated by legal dogmatics, as exemplified by urban law in relation to urban planning. Nonetheless, discourses coming from more critical forms of knowledge usually remain completely silenced. This is the case of contemporary urban sociology and its discourses about social conflicts and patterns of exclusion over public spaces. Developing as a disciplinary field during the 20<sup>th</sup> century, urban sociology experienced a radical transformation between the 1960s and the 1970s. The theory of paradigms helps to explain the crisis and decline of the scientific model that until that moment guided the work of the urban sociology community and its sudden replacement by another emerging model. The shift from the ecological paradigm to the socio-spatial paradigm in urban sociology led to an abrupt turnaround in the production of sociological knowledge about the city (see Zukin, 1980; Gottdiener & Feagin, 1988; Walton, 1993). Urban space could no longer be deemed a neutral receptacle of social phenomena. Instead, it should be seen as reflecting and shaping a social production process.

The lack of deep or specific reflections upon the spatiality of capitalism within Marx and Engels' writings (Lefebvre, 1972), has not prevented Neo-Marxist theorists such as Henri Lefebvre, Manuel Castells, and David Harvey from drawing upon their work. They undermine the Chicago School's ecological assumptions, which were previously mainstream in urban sociology, and granted a prominent place to social struggles and the politics of space in the research agenda (see Gottdiener, 1985; Katznelson, 1992; Merrifield, 2002). Lefebvre was a pioneer, and developed a sophisticated theory of space, arguing that it results from a social process of production (Lefebvre, 1970, 1991). Castells on the other hand, framed the urban question not so much as an issue of social production, but of conflicts originating from increasing state intervention in the organization of the collective means of consumption. His influential research on urban social movements theorized about the new actors reacting to state intervention in everyday life (Castells, 1972; 1983). Harvey insisted on the spatiality of the

underlying conflict between capital and labor and developed arguments regarding the strategies of capital accumulation through urbanization (Harvey, 1973; 1989a). In spite their distinct theoretical orientations, they agreed on the principle that social conflict was at the core of spatial changes.

Much of the socio-spatial literature on urban public spaces that has appeared over the last decades is rooted on the insights advanced by Lefebvre, Castells, and Harvey. A significant body of work is found in the pages of a number of international journals and books in urban sociology – an interdisciplinary field including perspectives from areas such as anthropology, human geography, and urban planning. In what follows, I review key aspects of this literature and discuss three intertwined conceptual shifts. The first shift “questioned Cartesian-inspired geographical formulations and recognized the flow/thing relationship of space and place” (Merrifield, 1993: 527). The second shift consisted of the move from the analysis of public space simply as a substantial thing/object towards the analysis of the “processes of privatization and publicization” (Capron & Haschar-Noé, 2007: 7-8, my translation) underlying the production of urban space. Finally, the third shift involved the abandonment of the definition of the ‘public’ character of a given space through naturalized and absolute features (Sabatier, 2007).

### *2.2.1 Places, Publicization Processes, and Use Values*

Thanks to dualist Cartesian logic, which tends to separate and reify the various aspects of social reality, places are usually theorized as empty, passive, and static receptacles of social practices. Places are simply seen as containers, delimited segments of the physical environment with a given function. In metaphorical language, they are the theatrical stages where the drama of urban life unfolds. But the dialectical logic of the Neo-Marxist school challenged Cartesian conceptions. Dialectics emphasizes change, movement, interactions, and contradictions. It is concerned with the way the various aspects of social reality are related, such as things and processes, the local and the global, the particular and the general. Accordingly, concrete living experiences localized in a place are theorized as inseparable from what is happening at broader spatial scales. Urban spaces are produced as a set of things – in the form of places – whose meanings are changed by social practices; at the same time, places shape practices. Thus, the different ways

through which social practices are inscribed spatially in the form of places matters (Merrifield, 1993).

One of the direct consequences of this first conceptual shift is the dissolution of rigid, pre-established, and undisputable distinctions between private and public spaces. If meanings are constantly changing, it makes sense to consider that there is a much wider range of places in cities than those traditionally described as urban public spaces – streets, squares, parks – whose spatiality can somehow be studied by means of such a sociological category. A few examples are beaches (Fontáñez Torres, 2009), markets (Watson, 2009), stadiums (Basson, 2007), and shopping malls (Capron, 2000; 2002; Staeheli & Mitchell, 2006). These are often described in the literature through intermediary categories such as “semi-public spaces” or “quasi-public spaces”, taking into account the vicissitudes of conceptualization and more obvious restrictions of access (Button, 2003). Also, the inherent ‘public’ character of places such as streets and squares can be critically addressed and questioned. Once the relations between places return to the analytical focus, issues such as the boundaries, dialogues, and intermediary connections between public and private spaces can be explored and interrogated.

If the interesting point is about how to problematize rather than naturalize public space as a thing/object, there are plenty of reasons to look at processes of privatization and publicization underlying the production of space in different settings. Some studies explore very specific places, like Brosseau and Gilbert’s (2004) investigation of the relationship between a central walkway in a Canadian city and the public sphere constituted by newspapers.<sup>13</sup> Another example is Ramírez Kuri’s (2010) work, who studied the public spaces of a Mexico City’s historic neighborhood in detail. Other researchers examine broader processes affecting larger segments of public spaces in a given city. For instance, Valverde (2004) calls attention to the battles between drug dealers and police forces in Rio de Janeiro, a process that is turning public spaces into passageways from a private space to another. Local inhabitants, especially the poor shantytown dwellers, are forced to deal with violent strategies of space control, while wealthy residents seek protection in gated communities. There are also those who focus on the relationships between the production of public spaces and processes that occur at global, national, and local scales. Pain (2000; 2001) turns to a

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<sup>13</sup> The notion of public sphere coined by Habermas (1989) refers to an immaterial sphere. Although in the past the public sphere relied on physical places (bourgeois saloons, literature circles, and coffee shops), today it relies more on political institutions and the mass media.



more general analysis of the fear of crime in the city, a phenomenon connected to the rise of gated communities. Leite (2004) and Balibrea (2003), respectively, look at the cases of Recife and Barcelona, scrutinizing the social consequences of cultural policies aimed at revitalizing neighborhoods.

Inevitably, the analytical focus over processes of privatization and publicization questions what kind of public is being constructed as well as which social groups are being affected. Concerns about the working class in industrial capitalism – centered on arguments such as price barriers, lack of free time, and long distances between the workplace, home, and recreational facilities – have been gradually abandoned in favor of a focus on social groups such as street vendors (Staudt, 1996; Donovan, 2008; Crossa 2009; Hunt, 2009), indigenous people (Swanson, 2007), the homeless (Mitchell, 1995; 1997), youth (White, 19993; Collins & Kearns, 2001; Malone, 2002), African Americans (McCann, 1999), migrants (Dines, 2002; Staeheli, Mitchell & Nagel, 2009), women (Bondi & Domosh, 1998; Fenster, 2005), homosexuals (Catungal & McCann, 2010), political activists (Mitchell, 2003; Mitchell & Staeheli, 2005a), disabled persons (Kitchin & Law, 2001), and sex workers (Sanders, 2004). Different kinds of actions and discourses have also been discussed, such as artistic and cultural manifestations (Brunaux, 2007; Fortuna et al., 1998), rallies, marches, and demonstrations (Mitchell, 2003; Zick, 2006), public gardening (Staeheli, Mitchell & Gibson, 2002; Blomley, 2004a), and the consumption of alcohol in public (Jayne, Holloway & Valentine, 2006).

Similar practices are evaluated alternately as leading to the publicization or privatization of public spaces, depending upon researchers' and social actors' own values and perceptions. For instance, while some actors describe the presence of street vendors and the homeless in plazas as an indicative of the privatization of public space, others interpret it in a diametrically opposite way. Findings of this kind suggest that the classification of a particular process in terms of publicization/privatization is conditioned by social groups' interests and the set of use values attached to the concept of public space. Not surprisingly, many scholars find it difficult to separate the descriptive from the normative or the philosophical from the sociological imaginary in the debate over public space. Bauman (2009) and Friedmann (1992), for example, think that public spaces only qualify as such under the condition of encouraging certain use values, such as centrality, gathering, encounters with alterity, and convergence of differences. The more heterogeneous and diverse a city, Bauman says, the more it will

offer in terms of attractions and opportunities. A city has in its soul the idea of public space, the possibility of unexpected encounters with other human beings, because a city is about living together in a community of strangers who trust each other. Public spaces, Friedmann states, are the essence of urban life. Streets are places to gather before being arteries for traffic. By taking the streets in protest against the state and for celebrations, people claim the city as their own space, a political community with its own memory.

Although the use values associated with the quality of 'public' are at the core of Bauman and Friedmann's arguments, it is undeniable that a sort of nostalgia can be found in their writings. It seems that they regret the loss of spatial qualities that characterized urban life for quite a long period of time. In this respect, they follow Sennett's (1977) famous argument over the decline of public sociability in 19<sup>th</sup> century European cities. There are not grounds for the same kind of nostalgia in different contexts, such as Latin America. In the periphery of globalized capitalism, public spaces are also the essence of the city (Saldanha, 2005). Yet the plazas of 19<sup>th</sup> century Latin America were central spaces of extremely unequal colonial towns, where the use values celebrated by Bauman and Friedmann could never be fully realized. Thus, it is difficult to talk about the "death of public space" (Sennett, 1977) or to make reference to urban changes undermining spatial qualities that have been almost completely absent historically (Leite, 2004: 129-145).

Urban sociology does not provide any consensual definition of public space. Nevertheless, it does suggest that public spaces are physical places which first and foremost tend to favor the encounter of diverse publics and encourage the convergence of a wide set of competing, conflicting, and sometimes harmonious behaviors. They represent a permanent and dynamic social construction, a process that should be understood as taking into account differences in terms of particular social groups' actions and discourses. The 'public' character of a space is given by the degree in which the encounter with the other, with the different is possible within a specific context. This is closely tied to the idea of contact through density that urban life is expected to encourage. Homogenization tends to lead to a loss of spatial qualities, reflected in social actors' perceptions of non-belonging, non-identification, exclusion, segregation, and privatization in respect to public spaces. It is empirically impossible to achieve the absolute and full encounter of differences. In fact, this could be considered a utopian horizon in the publicization or privatization debate.

### *2.2.2 Patterns of Exclusion over Public Spaces*

As urban sociology shows, the process of production of space in capitalist cities over the last decades has undoubtedly challenged the certainties of legal dogmatics. Contradictions, conflicts, and struggles over public spaces turned the promise of equality proclaimed by the category of common use property into nothing more than a chimera. Not surprisingly, researchers such as Duhau and Giglia (2008) analyzed public spaces to point to the different ‘cities’ that exist within a contemporary metropolis. On the one hand, there is a call for repressive order. Terrorism, street crime, vandalism, obstruction of the flow of traffic, and harassment of pedestrians are among the declared reasons for the implementation of sophisticated mechanisms of control targeting the presence in public of diverse groups, such as political activists, migrants, street vendors, beggars, trash collectors, loitering teenagers, and sex workers. On the other hand, contradictions are found between public spaces when it comes to the provision of maintenance services, street furniture, and basic infrastructure. Space dichotomies tend to become consolidated: formal vs. informal; central vs. peripheral; elite residential vs. shantytowns; accessible vs. non-accessible to disabled people; tourist vs. the non-tourist. In addition, the segregation of publics dramatically increases with the proliferation of gated communities, closed leisure clubs, and shopping malls.

In recent decades, the intensified control over what is perceived as disorder in urban public spaces entered policymakers’ agendas across the Western world. The fear of interacting with others on the streets, exacerbated by the mass media and exploited by electoral campaigns, has favored the strengthening of various ‘law and order’ and ‘zero tolerance’ movements, as well as the spread of a repressive ideal in relation to particular social groups’ actions and discourses. In developed countries, there are concerns related to street violence and terrorist attacks, both rhetorically related to migrants and ethnic minorities. In developing countries, indigenous and black people are the groups most commonly stereotyped as a threat to safety in public spaces. However, the behaviors that social control agencies are seeking to suppress go far beyond violent acts against people’s life, physical integrity, and personal patrimony. The influential ‘broken windows hypothesis’, claiming that an environment permissive to disorder inevitably leads to serious crime (see Wilson & Kelling, 1982), turned the focus of regulation and policing towards behaviors in public spaces described as petty offences,

disorders in general, and incivilities, such as unauthorized vending, graffiti, and sleeping outdoors.

Sophisticated mechanisms and techniques are being used to control behavior in public spaces. Electronic mechanisms are now widely disseminated. In shopping malls, the use of closed-circuit televisions has become part of the declared strategy of discouraging the presence of unwanted users who neither violate the criminal law nor commit illegal acts, but are caught not pursuing the previously assigned purpose of consumption. However, monitoring devices are also being installed in public spaces such as commercial streets in an attempt to emulate privatized spaces (see Koskela, 2000). Architectonical barriers are another type of mechanism frequently used. These include the enclosure of parks and plazas through high walls, hedges, and iron fences, combined with restrictions concerning opening hours. Also, pieces of street furniture, such as park benches, have been deliberately designed with the intent of making certain uses difficult, such as preventing homeless people from sleeping on them (see Wagner, 2011). The use of legal mechanisms is becoming increasingly more common. Cities have enacted civility statutes and bylaws on the use of public parks, listing a wide range of prohibited behaviors subject to dissuasion through stringent policing, pecuniary penalties imposed by enforcement officers, and immediate cessation through detention if necessary.

Electronic, architectonical, and legal mechanisms do not only focus on bringing violent crime to an end. For instance, situational crime prevention is often welcomed by merchants who think that tactics of this kind will drive away unwanted publics and facilitate business. The exclusion of social groups from public spaces is actually connected to a series of underlying socioeconomic processes. Urban sociologists have argued that the tolerated public has been increasingly equated to that reputed as convenient to middle-class and upper-class residents and visitors. The homogenization of the public guarantees more profits than the free presence of different publics. As a result, public spaces have been managed in order to favor certain functional goals, such as safety, spectacle, entertainment, comfort, beauty, and consumption. The surprising and unexpected interactions and encounters likely to be found in public spaces are now being subject to careful planning by landscape designers and real estate developers (see Van Deusen Jr., 2002; Miller, 2006; Smithsimon, 2008). Local authorities have been working hard to erase the annoying realities of everyday life, such as poverty, social discord, and violence, which do not match the expectations of those who seek for leisure, business, and consumption experiences from public

spaces. These policies aim to ensure that “public spaces remain ‘public’ rather than ‘hijacked’ by undesirable users” (Mitchell, 2003: 2).

The most prominent example of an underlying socioeconomic process that has been studied so far is the case of public space redevelopment programs funded by public administration agencies in partnership with private actors. These programs for the most part, are not directly oriented to discourage the presence of particular social groups in public spaces. Rather, the programs’ rhetoric is about enhancing the ‘public’ character of public spaces by means of tourism and cultural policies. However, the outcomes have been the uneven promotion of public uses across the city, both in terms of the choice of the areas to be redeveloped, and the kinds of uses and discourses that are privileged. For instance, Leite (2004) studied a heritage conservation program in the historic center of Recife, while Serpa (2007) looked at programs aiming to revitalize central districts through investments in the improvement of parks in Salvador and Paris. Both found the results of such programs to be ambivalent, and highlighted that besides neglecting the needs of the poorest inhabitants of the city, they may initiate gentrification processes that ultimately lead to the eviction of the traditional dwellers in favor of rich newcomers.

Redevelopment programs mainly concerned with monumental interventions of renowned artists and famous architects in public spaces located in tourist, residential, and commercial zones of cities are sometimes contrasted to redevelopment programs aiming to improve public spaces situated in marginalized zones of the city (Balibrea, 2003). Nevertheless, new contradictions concerning public spaces often overlap with older ones. In Latin America, the immense differences in terms of urban conditions between formal and informal housing areas are very well documented. It is worth mentioning, for example, the issue concerning the poor physical conditions of streets and sidewalks in informal settlements. In Brazilian shantytowns, obstacles of this kind eventually facilitate strategies of spatial control imposed by drug dealers and militias. They also make it difficult for residents to access transport, home delivery services – particularly those involving heavy and bulky goods, such as refrigerators and sofas – and basic public services such as regular mail, waste collection, emergency medical care, and firefighting (see Andrade, 2004). If the informality of the occupation of the land already conditions the abandonment of many public spaces, other governmental priorities in terms of planning, investment, and maintenance may exacerbate the uneven development.

Similar concerns have also been arising from the study of the self-segregation process. The complete annihilation of use values attached to the concept of public space appears as a new urban trend. Researchers emphasize that for many cities automobile circulation has become a priority and even plazas are used as parking lots. The predominance of the private motorized vehicle discourages alternative uses of streets and modalities of circulation that are friendlier to social interaction (Borja & Muxí, 2003). In big cities like São Paulo (Caldeira, 1996; 2000) and Los Angeles (Davis, 1990), cars have become the defensive capsules used to move from one 'fortified enclave' to another. This expression refers to urban spaces of communal use with the declared goal of selecting the public of users and protecting them from the interaction with the rest of the city's inhabitants. Guided by the rhetoric of exclusivity, fortified enclaves have proliferated, introducing emblematic signs of segregation into the urban landscape: high walls, barbed fences, and solid iron bars. Defensive barriers of this kind now mark the boundaries of thousands of gated communities, shopping malls, recreational clubs, offices and schools, indicating the impressive popularity of fortified enclaves.

Fortified enclaves "not only provide protection from crime, but also create segregated spaces in which the practice of exclusion is carefully and rigorously exercised" (Caldeira, 1996: 311). Architects put aside the aesthetics of the facades, concerns about the interrelations between private and public spaces, and also the design of public spaces, in order to focus only on conceiving hermetic places that must be effective in terms of filtering and protecting legitimate users. Real estate developers make no effort to hide the anti-urban nature of these exclusive and exclusionary spatial products. Quite the contrary, the marketing of gated communities sell the promise of quality of life. Nevertheless, fortified enclaves have been theorized as homogeneous environments that in fact create, reproduce, and intensify exactly the same needs that they claim to satisfy (Bauman, 2009). The annihilation of use values attached to the concept of public space often overlaps with other patterns of exclusion such as the selective control of the public and the uneven promotion of public uses.

### *2.3 Escaping from Epistemological Cages*

In Western capitalist cities, contradictions, social conflicts, and patterns of exclusion affect both private and public spaces. The socio-spatial paradigm in urban sociology, as shown in section 2.2, sheds light

on the diversity of places, actors, practices, mechanisms, processes, and conflicts involved in the complex contemporary debate about public space. Surely, the specific examples from the literature which were briefly discussed are only a few among many that could be analyzed and connected to each of the three main patterns of exclusion that I have signaled: the annihilation of use values inherent to the idea of public space, the selective control of the public, and the uneven promotion of public uses. Furthermore, this body of literature suggests that during the last decades underlying socioeconomic processes have played a prominent role in conflicts over public spaces. Among these, the conversion of cities into tourist destinations is frequently highlighted. On the one hand, there are polemical discussions over the death of the idea of public space cultivated in 19<sup>th</sup> century Europe. On the other hand, there are intense debates over the new socioeconomic significance public spaces have gained since tourism emerged as a mass cultural practice in the post-Second World War period.

It might be claimed, following Renner's argument, that changes in the socioeconomic context were responsible for turning the category of common use property into an illusory discourse about equality over public spaces. However, this conclusion leaves crucial issues unexplained. First, it does not explain the apparent stability found on the surface of the legal discourse that motivates the uncritical reproduction of this key legal category over time. Fortunately, the concept of private property, the most sublime construction of legal dogmatics, has already been extensively addressed and critically questioned (see Rodotà, 1990; Rose, 1994; Azuela, 1999). Why has not something similar happened with the category of common use property? As discussed in section 2.1, common use property is a legal category that dates back to the distinctions between property regimes made by civil law scholars. Its content has changed when it was combined with categories of administrative law such as the notions of normal use and police power of the state. Finally, urban law came up with the complementary concepts of alignment and urban function. That is, behind the apparent stability of the category of common use property there are important discursive changes.

The second unexplained issue, perhaps much more important, is that such a conclusion does not address the roles played by law in socioeconomic processes nor the extent to which law has been affected by socioeconomic changes. Although urban sociology scholarship stresses the discrepancy between legal discourse and its socioeconomic effects, making frequent mention of the legal mechanisms (i.e. statutes,

bylaws, judicial cases) connected to such processes, in general it does not advance a theoretically informed or detailed analysis of the normative dimension of the production of public spaces (for a major exception, see Duhau & Giglia, 2008). The legal dimension can neither be isolated from broader social processes as the paradigm of legal dogmatics suggests nor can it be regarded merely as a reflection of these processes. Once the social conflicts over public spaces disguised by legal dogmatics are unfolded, one realizes that very little is known about the interrelations between different types of norms and the production of space. That is, in spite of its ability to challenge the certainties of legal science, urban sociology neglects the crucial roles performed by public space regulation.

This unsolved problem is related to the epistemology behind Renner's famous question. My own analysis thus far has to a great extent followed the epistemological view underlying the way Renner constructed an answer to the problem of stable legal discourses *vis-à-vis* changing socioeconomic contexts. However, I suspect that this conception reflects a way of seeing the problem constrained by two 'epistemological cages'. Central to Renner's work is the tension between legal dogmatics and sociology as distinct disciplinary fields. On the one hand, Renner belongs to the positivist school of legal thought. This is what gave validity to his conclusion about the stability of private property as a legal category. On the other hand, he is a major exponent of the Austro-Marxist school (see the volume edited by Bottomore & Goode, 1978), and this is what gave validity to his sociological analysis of the changing socioeconomic effects of private property as a legal category. Renner himself claimed that this tension was a matter of division of scientific labor. In Kuhn's terms, it could be claimed that Renner validated his own academic work within the paradigms of two very different scientific communities.

Social conflicts concerning public spaces assumed renewed relevance contemporarily, but the mainstream legal scholarship has masked the normative dimension of such conflicts. Therefore, there is a need to find another scientific paradigm that could potentially explain public space regulation. I am convinced that the socio-legal paradigm in sociology of law provides this alternative. It is a way to escape from the central tension in Renner's work between legal dogmatics and sociology, a problematic epistemological issue at the beginning of the 20<sup>th</sup> century. Although it is not possible to state that this tension has been completely surpassed, sociology of law is a much more consolidated scientific field today. The "stepchild" of legal science and



sociology, sociology of law has eventually “grown up” and developed as a disciplinary field with its own identity, focusing on norms and normative action (Hydén, 1999). Although sociology of law is characterized by multiple approaches to the study of law in society, it provides a distinguishable scientific paradigm to the production of scientific knowledge about law.

Kuhn suggests that “scientific paradigms can be discovered by scrutinizing the behavior of a given community’s members” (1970: 176). Indeed, during the 1960s and 1970s, a new scientific community dedicated to law and society scholarship emerged,<sup>14</sup> and started to continuously reproduce an alternative model for the production of scientific knowledge about law: the socio-legal paradigm. Sociologists of law are not necessarily trained at law schools and are rarely directly involved in judicial decision-making. Research is carried out on a diverse set of topics of general interest to the social sciences, and norms and normative action are often taken as a common theme. Theories and methods are shared with other social sciences, but are completely different from those of legal dogmatics. Legal pluralism,<sup>15</sup> the idea that other types of norms than state-made norms also matter for the comprehension of the legal phenomenon, is a postulate amongst the socio-legal community. For this reason, the empirical material subject to study goes beyond the legal norms of a given state’s legal order. Socio-legal scholars deny that law can be explained by logical and abstract legal doctrine; rather, law is seen as a phenomenon that is part of social life (Cotterrell, 1998: 183). A socio-legal approach, therefore, seeks an accurate, grounded, and contextualized understanding of the meanings and conditions of justice in society.

In the present study, public space regulation is the research topic seen through a socio-legal lens. I look far beyond the category of common use property in order to provide a theoretically informed and empirically grounded analysis of the interrelations between different types of norms, normative action, and the production of public spaces.

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<sup>14</sup> Obviously this was not a movement built from scratch, but brought a clear novelty. As it was noted, “the field law and society does not have a particularly long history as such [...]. It is, of course, a kind of intellectual game to look for and find precursors here and there, as far back as one wants to go” (Friedman, 2005, p. 4).

<sup>15</sup> This concept dates back at least from the pioneering work of Ehrlich (2001), first published in 1913. However, the volume edited by Gilissen (1972) is generally considered the first time that the expression ‘legal pluralism’ was used in the socio-legal literature. For different moments of the debate on legal pluralism, and different perspectives, see Vanderlinden, 1972; Hooker, 1975; Griffiths, 1986; Merry, 1988; Wolkmer, 2001; Santos, 1995; Woodman, 1998; Tamanaha, 2000; Griffiths, 2002; Benda-Beckmann, 2002; Michaels, 2009.

Context matters of course; therefore, following urban sociology insights over changing socioeconomic processes in the contemporary Western world, I have chosen to focus on public space regulation in the specific context of tourist cities in Latin countries of Europe and America. As I will discuss in the next chapter, the growth over the past two decades of legal geography as a field of inquiry within sociology of law indicates the existence of solid foundations for further advancements towards a socio-legal approach to the production of public spaces. Moreover, research in this field suggests that interdisciplinarity is not a problem for socio-legal studies. Rather, it must be taken seriously. For this reason, in the next chapter, theories from sociology of law, urban sociology, and sociology of tourism are articulated in an attempt to provide a more comprehensive theoretical framework from the very beginning.



### **CHAPTER 3**

#### **How Are Public Spaces Regulated?**

#### **Towards a Socio-legal Framework**

In the previous chapter, I discussed the shortcomings of legal dogmatics and urban sociology approaches, and situated my study of public space regulation in tourist cities within the discipline of sociology of law. I also positioned the present study within legal geography, a socio-legal field defined by its interdisciplinarity. There is now extensive literature available about the interrelations between law and space, where discussions over public space regulation can be firmly anchored. The legal geography literature does not provide general and complete theoretical statements about the interconnections between law and space that can be tested against empirical evidence in a more deductive, theory-driven way. Scholars working in this field are not usually very interested in analysis to verify theoretical statements of a positivist nature. Instead, they make use of a constructivist, flexible, and dynamic set of conceptual tools, related to empirically oriented and middle-range theories. Nevertheless, legal geography is still an emerging field within socio-legal studies and there is considerable work to be done in the development of its theoretical foundations.

I start this chapter, in section 3.1, by briefly discussing the main theoretical debates over public space regulation in the field of legal geography, and relating them to the conceptual tools used in the present study.<sup>16</sup> In the next sections of the chapter, I elaborate my theoretical framework. Conceptual tools from sociology of law, urban sociology, and sociology of tourism are articulated in order to constitute a more comprehensive theoretical framework for designing case studies about public space regulation and analyzing the empirical findings. In section 3.2, I describe the theory of the production of space, an influential construction in the discipline of urban sociology. The central concepts of this theory are incorporated as a crucial component of the theoretical framework adopted in the present study. In sections 3.3 and 3.4, I look at recent conceptual developments concerning two basic theories in sociology of law, the theory of property relations and the theory of norms. Finally, in section 3.5, I discuss the theory of tourist attractions, which is a long-standing conceptual construction in tourism studies. I

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<sup>16</sup> In Part III, this body of literature is revisited in light of my own findings. At this point, I simply draw from the theoretical insights of legal geography to identify the most sensitizing and stimulating concepts for carrying out empirical research on public space regulation.

argue that it provides conceptual tools that are useful for explaining how public spaces are produced in the particular context of the tourist city.

This chapter's main theoretical contribution to socio-legal studies, and in particular to the field of legal geography, lies in the way the theory of property relations and the theory of norms are theoretically combined. Both are used to construct a typology of norms with operational relevance as an analytical framework for conducting empirical research on public space regulation. According to the theoretical framework that is advanced throughout this chapter, at least three different types of norms should be analytically distinguished: the legal norms, social norms, and ideological norms. I argue that scholars studying public space regulation should more explicitly consider these three types of norms as well as the interplay between them in order to have a better grasp of the implications of normative action for the production of space. In the legal geography literature, there are frequent references to the theory of property relations and to the theory of norms. However, to my knowledge, they have not been integrated at a theoretical level for the purpose of carrying out empirical research about public space regulation.

### ***3.1 Legal Geography and Public Space Regulation***

The founders of the socio-spatial paradigm in urban sociology achieved theoretical clarity with their critique of ecological approaches and their own understanding of the urbanization process. Yet, Henri Lefebvre, Manuel Castells, and David Harvey did not succeed in problematizing the normative dimension of the production of space. Castells and Harvey have very little to say about law's impacts on the social struggles over urban space. Their analyses are restricted to the insights previously provided by Karl Marx and Friedrich Engels on private property. Lefebvre also "did not directly explore how, or the extent to which, the legal order has determined the exclusionary pattern of urban development. [...] There is no articulated discussion on the critical role of law in the urbanization process to be found in his work" (Fernandes, 2007: 208). As a result, for a long period the normative was diluted into the political and economic dimensions of urbanization, in particular regarding property relations and informal mechanisms of accessing land (see Azuela, 1999; Fernandes, 1995).

In spite of a few earlier attempts (see Santos, 1977; 1980; Frug, 1980) to articulate a socio-legal discussion over the interrelations between law and urban space, it was not until the 1980s that issues of

this kind started to be critically and systematically interrogated. The groundbreaking literature from the 1980s and 1990s provided the theoretical foundation for a research agenda in sociology of law with a focus on housing policies, planning legislation, and regularization of informal settlements (see, for instance, Santos, 1982, 1983, 1992; Fernandes, 1993, 1995, 1996; Azuela, 1987, 1989, 1991; Rolnik, 1997; Alfonsin, 1997; the volumes edited by Falcão, 1984; Fernandes & Varley, 1998). The variety of articles that have appeared in leading socio-legal journals recently (see Varley, 2010; Van Gelder, 2010; Ward et al., 2011) proves that the socio-legal debate over the urbanization process is still of great interest, especially in the Latin American context. Over the past two decades, this line of inquiry has been integrated into legal geography,<sup>17</sup> a vivid and influential field of socio-legal research today, with a broader interest in the interconnections between law and space (see Blomley, 1989, 1994; the volumes edited by Blomley, Delaney & Ford, 2001; Holder & Harrison, 2003; Taylor, 2006; F. Benda-Beckmann, K. Benda-Beckmann & Griffiths, 2009).

There is now an extensive body of literature addressing the intersections between law and space (for a recent account, see Delaney, 2010). Some of the topics that have been studied relate to spatial scales beyond the scale of the city.<sup>18</sup> Yet, the urban, which is the scale of the everyday life of the majority of the planet's inhabitants nowadays, still remains at the center of the research agenda in legal geography. In the context of the Latin countries of Europe and America, where socio-legal studies still are predominantly carried out by scholars originally trained as lawyers, public space regulation is a topic of research that is rarely explored. Nevertheless, it has gained increasing attention in the Anglo-Saxon context. Legal geography scholars such as Nicholas Blomley (Canada), Don Mitchell (United States), and Lynn Staeheli (United

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<sup>17</sup> I prefer to use the shorter expression legal geography instead of "critical legal geography" because I believe that the 'critical' adjective cannot be taken for granted. Nicholas Blomley, one of the main scholars in the field, addressed extensively the issue about how 'critical' "critical geography" actually is in a series of three articles (see Blomley, 2006, 2007a, 2008a).

<sup>18</sup> Over the last two decades, excellent theoretical and empirical studies in the field of legal geography have appeared on a wide range of topics, including the history of jurisdiction (Ford, 1998), ethnic and religious conflicts at the neighborhood level in England (see Cooper, 1996) and Israel (see Rosen-Zvi, 2004), the role of legality in the history of racial segregation in the United States (see Delaney, 1998), everyday issues concerning the Israel/Palestine geo-national conflict (see Braverman, 2007, 2008, 2009), the use of "spatial tactics" for the purpose of controlling and disciplining protest and dissent in the United States (Zick, 2006), and the history of the condominium as a form of land ownership in Canada (Harris, 2011). Recently, the spatial scope of legal geography research was extended as far as to deal with issues concerning the geostationary orbit around the Earth (Collis, 2009).

Kingdom), originally trained as human geographers, are the leading socio-legal researchers focusing on public space regulation. Their excellent work on this topic has appeared not only in urban studies literature (Blomley, 2007b; Mitchell, 1995, 1996, 1997; Staeheli, Mitchell & Gibson, 2002; Mitchael & Staheli, 2005a; 2005b; Staheli & Mitchell, 2006, 2007), but also in socio-legal journals (Blomley, 2007c, 2010a; Staeheli & Mitchell, 2008b) and a number of books (Mitchell, 2003; Staeheli & Mitchell, 2008a; Blomley, 2010b).

Socio-legal research about public space regulation is empirical and inductive in nature. Sometimes there is no explicit reference to the theoretical framework being used, as can be exemplified by Blomley's recent studies about hegemonic normative views framing the regulation of circulation in Canadian cities (Blomley, 2007b, 2007c, 2010a, 2010b). However, the strong theoretical influence of Lefebvre's theory of the production of space and the theory of property relations can be easily recognized by those who are aware of Blomley's previous work (Blomley, 1997, 1998, 2003a, 2004a, 2004b, 2005, 2008b). For instance, he draws upon Lefebvre's spatial triad to elaborate on the concept of landscape, suggesting that it may serve not only as a way to reify dominant property relations (representations of space), but also as a way to create spaces of contestation (representational spaces). Because landscape is a concept that refers both to a material site (the physical environment) and a discursive sight (the particular way of seeing a space), it is a conceptual bridge useful to think about the interrelations between spatial practice and representations of space (Blomley, 1998). He also interrogated the public/private divide and analyzed "the dominance of certain notions of property in which the commons, a space of not-property, is imagined as inherently disordered and dangerous" (Blomley, 2004a: 636).

In Mitchell's early writings on homelessness, political activism and public space regulation in the United States (Mitchell, 1995, 1996, 1997, 2003), the prominent role played by Neo-Marxist urban sociology is even more explicitly recognized. According to him, public spaces are produced through a dialectic of inclusion and exclusion, order and disorder, rationality and irrationality, violent and peaceful dissent. Excluded groups have to fight their way into the public if they want to be heard or sometimes even be seen (Mitchell, 2003: 51-52). Lefebvre's spatial triad is used to explain the conflict between two opposing views about the meaning of public spaces. On the one hand, according to hegemonic representations of space, public spaces are conceived as controlled, orderly, and safe places, planned for retreat, recreation, and

entertainment, whose use is restricted to the properly behaved public. On the other hand, according to non-hegemonic representational spaces, public spaces are imagined as unconstrained and politicized places, marked by free interactions, the absence of coercion by powerful institutions, and tolerance to the risk of disorder (Mitchell, 2003: 128-129). Mitchell also calls attention to property relations, claiming that public space is in part “the product of a struggle over the legal content of public space – who owns it, who controls it, who has the right to be in it, and what they may or may not do once there” (Mitchell, 2003:46).

Mitchell’s work with Staeheli, including a series of insightful case studies over public space regulation in the United States (Staeheli, Mitchell & Gibson, 2002; Michael & Staeheli, 2005a; 2005b; Staeheli & Mitchell, 2006; 2008a), benefited not only from Lefebvre’s conceptual tools, but also from a deeper engagement with theories of property relations. They claim that property “is a crucial set of relationships that structure the role, function, and nature of public space as space”, that property rights “matter critically to who is and who is not included in the public”, and that the struggles over them “powerfully condition the nature of accessibility” (Staeheli & Mitchell, 2008a: xx-xxiii). Staeheli and Mitchell’s cross-case analysis theorizes property as one of the three constitutive elements of what they call “regimes of publicity”, together with “forms of legitimation” and “social norms”. The interplay of these elements conditions the “differential access to the public realm”, that is, “how the public is differentiated” and “the modes by which inclusions and exclusions are enacted and contested” (Staeheli & Mitchell, 2008a: 146-152). Therefore, Staeheli and Mitchell not only take into account theories of property relations, but also make reference to theories of norms, distinguishing between social norms and legal norms.

Over the last two decades the theory of the production of space has informed legal geography scholarship, and still has a relevant role to play in its future development (see Butler, 2009). Blomley, Mitchell, and Staeheli’s work proves that the conceptual tools provided by Lefebvre’s theory of space are of great utility for carrying out empirical research about public space regulation. Nevertheless, their work has also pointedly questioned whether Lefebvre’s theory is sufficient for constructing a more comprehensive theoretical framework for conceptualizing the normative dimension of the production of space. As Blomley’s discussions over property relations and Staeheli and Mitchell’s formulations over the elements of regimes of publicity suggest, the theory of the production of space may provide for a more fertile mode of inquiry if taken as part of a broader analytical



framework, which must include a theory of property relations. In addition, Blomley's attention to hegemonic normative views and Staeheli and Mitchell's reference to social norms encourage deeper theoretical engagement with a theory of norms. Finally, the study of tourism as a specific socio-economic process with implications for public space regulation demands consideration of the theory of tourist attractions.

### ***3.2 The Theory of the Production of Space***

Relying upon an unorthodox interpretation of the Marxist tradition,<sup>19</sup> Lefebvre advanced a sophisticated theory of space in the classic book *The Production of Space* (Lefebvre, 1991). According to Lefebvre's theory, space is socially produced, in the broad sense as something whose materiality and symbolic meanings are socially constructed through social relations. That is, the spatiality of conflicting social relations in society is constantly being made and remade. Lefebvre claimed that the product and process of production are inseparable entities. Drawing from Marx's dialectical logic, he saw production not only as the creation of material things, but also as an essential part of the reproduction of social relationships. Consequently, in his work, space appears simultaneously as a material product resulting from the process of social production (space as product-produced), a productive force affecting social production (space as product-producer), and the physical site where living bodies interact as a necessary condition for social relations (space as product-medium). Under the capitalist mode of production, space most often, but not always, assumes the form of a commodity with an exchange value that is traded and consumed. Even though space as a product always preserves use values connected to the satisfaction of human needs and aspirations.

The exchange value/use value distinction, originally formulated by Marx, is dialectical rather than binary. Lefebvre thought that such a distinction is central to social struggles over the meaning and materiality of space. In contemporary capitalism, as is the case with many other

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<sup>19</sup> *The Production of Space* was the culmination of a sequence of five other books on urban issues written between the late 1960s and early 1970s (see Lefebvre, 1968, 1970, 2001, 1972, 2000). Lefebvre noticed that Marx's work "was essentially about time – the extraction and circulation of surplus value. Lefebvre believed that Marxian political economy neglected the material aspect of production: the world of commodities existed in space as well as time" (Gottdiener, 1993: 130).

products, spaces tend to be increasingly turned into commodities which are bought and sold because hegemonic groups in society – not only the capitalist class – tend to prioritize the exchange value over the use value. There is a tendency to produce “abstract spaces” – this is the way Lefebvre labeled the spatial forms which all look the same, oriented towards fragmentation, homogeneity, and hierarchy. Nevertheless, the space production leaves open the permanent possibility of a search for transformation of the prevailing spatial order. Non-hegemonic groups in society – not only the working class – engage in counter-hegemony resistance to the production of abstract space first and foremost by occupying space physically with their own bodies. They may not only resist, but also counter-attack, and struggle to reassert the priority of the use value in the space production process. Counter-hegemonic struggles introduce counter-spaces into spatial reality, and accentuate the kind of creative differences that make spaces assume the meaning of *œuvre* in the strong sense of a work of art. As Lefebvre stated, “whereas a work has something irreplaceable and unique about it, a product can be reproduced exactly, and is in fact the result of repetitive acts and gestures” (Lefebvre, 1991: 70).

Lefebvre’s theory is based upon a conceptual triad that explains how the space production process functions in society. The dialectical logic requires three analytical elements, not two (Lefebvre, 1991: 39). The capitalist production of the city has historically resulted in an imbalance because it is grounded in “representations of space” conceived by hegemonic groups in society who emphasize the exchange value and pursue its maximization. Nevertheless, the use value remains central to the “representational spaces” experienced and imagined by non-hegemonic groups, who strive for better life conditions. They both shape the everyday life “spatial practices” of different social groups, who “cannot constitute themselves, or recognize one another as subjects, unless they generate (or produce) a space” (Lefebvre, 1991: 416). It is theoretically claimed that social struggles over the production of space cannot be integrally explained without examining the complex interactions between these constitutive elements: spatial practice, representations of space, and representational spaces (Lefebvre, 1991).

Spatial practice is a concept that refers both to the physical environment and empirically observable behaviors – particular social groups’ presences, actions, and discourses. It comprises physical interventions that change the materiality of the environment and the appropriation of material sites by living bodies. Spatial practice includes individual daily routines, collective rhythms, ordinary and extraordinary

displacements, and concrete architectural forms. Simply put, this concept grasps how space is perceived and how people behave in everyday life. Spatial practice obviously is not the same everywhere, although remarkable similarities may be found when one compares distinct places. "Spatial practice must have a certain cohesiveness, but this does not imply that it is coherent (in the sense of intellectually worked out or logically conceived)" (Lefebvre, 1991: 38). It is one of the various concrete ways in which social power is exercised. For example, the power people have to move their bodies and enter a wide range of places; the lack of power people have when their bodies are constrained by the bars of a jail; the power that a group of people has to obstruct the flow of the traffic in a street with their own bodies; the power a group of people has to close the door of a room and physically isolate their bodies from other bodies.

The concept of representations of space relates to the way space is formally conceptualized by social groups as a mental model used to guide spatial practice. It is the space derived from the conceptions of urban planners, architects, engineers, and cartographers, whose technical expertise is officially recognized and legitimized by dominant institutions in society. For instance, modern urban planners traditionally assign an exact place to each social activity in the city. This is how they represented urban space, regardless of the empirically observed spatial practice, which is actually much more confusing and contradictory. Indeed, representations of space tend toward a system of signs; they consist of semiotic abstractions. For example, maps and architectural drawings usually communicate a message by means of visual signs, while land-use zoning plans and land titles provide equivalent messages through verbal signs. Representations of space are often qualified as scientific, neutral and objective, although they serve to exercise social power. Formally conceptualized spaces actually favor the interests of some social groups to the detriment of the interests of others. In spite of being a manifestation of ideologies, representations of space tend to be elaborated as logical, coherent, and comprehensive codes of knowledge.

Finally, the concept of representational spaces is related to people's individual and collective memories, desires, and dreams concerning space. It refers to complex, diversified, and informal symbolical constructions in respect to lived space. Representational spaces are frequently connected to the clandestine and underground sides of social life, as well as the artistic, cultural, and festive manifestations, which can sometimes perform the function of unofficial codes of interpretation. For instance, representational spaces may be

understood by investigating the social imaginary of different social groups and by asking about the memories and aspirations of a city's inhabitants. They can also be scrutinized by looking at music, literature, and other forms of artistic expression. Alternative ideas regarding spatiality, even if they are not verbalized and do not constitute a completely coherent form of ideology, play a crucial role in social struggles over the production of space. Therefore, representational spaces provide a powerful basis for everyday resistance to the extent that they make it possible to imagine counter-spaces providing better life conditions.

This conceptual triad has the advantage of over-extending dichotomies in theorizing about relations of power. In fact, power is understood as having multiple dimensions, including ruling through persuasion and consent, not only coercion. Lefebvre, who drew from Antonio Gramsci's work (Gramsci, 1975),<sup>20</sup> explicitly theorized the production of space as a manifestation of cultural hegemony.<sup>21</sup> In Lefebvre's words, "hegemony implies more than an influence, more even than the permanent use of repressive violence. It is exercised over society as a whole, culture and knowledge included, and generally via human mediation: policies, political leaders, parties, as also a good many intellectuals and experts. It is exercised, therefore, over both institutions and ideas. The ruling class seeks to maintain its hegemony by all available means, and knowledge is one such means" (Lefebvre, 1991: 10). As in Gramsci's work, cultural hegemony is dialectically contrasted to domination, a concept referring to the state's monopoly over the use of coercive violence in contemporary society. For Lefebvre, hegemony and domination are forces of a different nature, and state power is only one of the means by which hegemony is exercised over society. In fact, knowledge is another mean of crucial importance, which is closely related to ideology.

According to Lefebvre, one of the ways ideology assumes consistency is by intervening in the space production process. Conceptions over the spatiality of social relations are essential to any

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<sup>20</sup> "The concept of hegemony was introduced by Gramsci in order to describe the future role of the worker class in the building of a new society, but it is also useful for analyzing the action of the bourgeoisie, especially in relation to space. The notion is a refinement of the somewhat cruder concept of dictatorship, first of the bourgeoisie and then of the proletariat" (Lefebvre, 1991: 10)

<sup>21</sup> Kipfer (2002) analyzed the connections between Lefebvre's work and that of Gramsci. He emphasizes that they provide different but complementary approaches to cultural hegemony, both understanding it as a key concept to explain the survival of capitalism.

ideology, which is defined as a comprehensive set of ideas proposed by a social group to society as a whole. But in capitalism, the relationship between ideology and knowledge changes through a process where knowledge replaces dominant ideology and the former becomes indistinguishable from the latter (Lefebvre, 1991: 44). “The area where ideology and knowledge are barely distinguishable is subsumed under the broader notion of representation, which thus supplants the concept of ideology and becomes a serviceable (operational) tool for the analysis of spaces” (Lefebvre, 1991: 45). Therefore, representations of space are so influential mainly because they are seen as an expression of culture and knowledge, regardless of being connected to the dominant ideologies that favor certain groups in society.

The concept of representations of space suggests that the influence of ideologies over the social production of space does not necessarily involve domination, the direct or threatened use of the state’s mechanisms of coercion. Yet, state power clearly matters in the production of space. Representations of space are influential when it comes to the interventions of public administration agencies in the production of space. Yet, the concrete actions of state authorities are much more controversial than dominant ideologies. Such interventions are related to the repressive and promotional roles of the state at the local level. On the one hand, the state is responsible for the management of class and groups interests. It imposes prohibitions and sanctions over certain forms of spatial practice through everyday techniques of social control. On the other hand, the state is responsible for the management and distribution of resources assigned to collective interests, providing infrastructure, equipment, and services. In addition, the state is a key institution in society in terms of legitimizing technical expertise and reproducing representations of space, especially through planning efforts.

The theory of the production of space provides operational concepts to grasp the complex and dialectical relationships among cultural hegemony, ideologies, knowledge, and the repressive and promotional roles of state at the local level. Although law is clearly undertheorized in Lefebvre’s work, others took his spatial triad seriously as a point of departure for conceptualizing the interrelations between law and urban space. For instance, legal geographer Chris Butler recently suggested that Lefebvre’s theory of space “provides a way of conceptualizing the tools of municipal governance simultaneously as codifications of dominant representations of space, and as technical mechanisms for inscribing dominant uses in space” (Butler, 2009: 327).

Elsewhere, he analyzed the introduction of market mechanisms in land-use planning in Australia, demonstrating that zoning techniques are both normative mechanisms for codifying representations of space and legal tools for inscribing them in physical uses of land (Butler, 2005). Although Lefebvre's theory serves as a point of departure, alone it is not sufficient to understand the normative dimension of the production of public space, that is, the constitutive relationship between the normative and the spatial.

### ***3.3 The Theory of Property Relations***

Lefebvre's theory of the production of space does not deny the importance of property relations. In his work, there are occasional references to property relations, mainly to Marx and Engels's insights on the private property regime. But the normative dimension of property is not treated as a theoretical problem worthy of being explored in a more comprehensive way. This is a critique that can be extended to New-Marxist urban sociology (see Azuela, 1989) and perhaps also to contemporary social theory in general (see Azuela, 2007), with only a few exceptions (see, for instance, Dahrendorf, 1959). Nonetheless, it is undeniable that issues concerning property relations have been at the center of social conflicts and struggles throughout history. Theoretical debates over property still attract significant interest in disciplinary fields other than sociology, including analytical jurisprudence, political philosophy, law and economics, and neo-institutional political science (see, for instance, the major works of MacPherson, 1979; Rodotà, 1990; Waldron, 1988; Ostrom, 1990; and Rose, 1994). The problem is that the way this debate is conducted in these disciplinary fields tends to reinforce the classical theoretical model, distinguishing between four types of property regimes: private property, communal property, state property, and common use property.

As was discussed in Chapter 2, this theoretical model is based on a continuum from private to public regimes of property. At the one end, private property is defined as the right to exclude others from benefiting from a thing. At the opposite end, common use property is defined as the right not to be excluded (MacPherson, 1979). Both property regimes are considered to be essentially based on rights created by the state. The key categories of the dominant legal discourse are seen as defining the meanings that property relations have for social actors. This model focuses on how property regimes should be instead of how they actually are. Debates over property regimes often tend to be instrumental, in the

sense of advocating for some kind of abstract hierarchy among the four types of property regimes in terms of efficiency and justice. As a result, the classic model actually provides a poor point of departure for rigorous empirical descriptions of existing property relations in society and for accurate analysis of their role in processes of social change (F. von Benda-Beckmann, K. von Benda-Beckmann & Wiber, 2006).

The analysis of property relations cannot be reduced to the categories of the mainstream legal discourse. Another theoretical model is needed to address the multiple meanings of property as a social relation, which is a normative relation (Azuela, 1989: 203) that is performed in practice (Azuela, 2007: 1211). There have been consistent attempts to explain property relations sociologically, as it is the case of the work of the socio-legal scholar Antonio Azuela (see Azuela, 1989, 2007). But the most comprehensive outline of a socio-legal theory of property relations can be found in the work of Franz von Benda-Beckmann, Keebet von Benda-Beckmann and Melanie Wiber (2006), which serves as the introduction to the edited volume *The Changing Properties of Property*. This theory departs from a very simple but straightforward reconceptualization of property as a sociological concept encompassing a wider variety of property regimes. Property is defined as the ways in which the relations between society's members with respect to things that are regarded as valuables are given form and significance. According to the theory, property relations comprise two axes: "property elements" and "layers of social organization". The first axis includes "social units", "valuables", and "rights and obligations". The second axis considers the "ideological layer", the "legal-institutional layer", and the "layer of concretized relationships" (F. von Benda-Beckmann, K. von Benda-Beckmann & Wiber, 2006: 14-29).

The concept of social units refers to the variety of real or fictitious persons who may have rights and obligations with respect to a given valuable, that is can potentially own things. Surely, society's members involved in property relations are ultimately individual human beings, people of flesh and bone. However, individuals are not always the most relevant social units for the analysis of property relations. A plurality of human beings can be sociologically conceptualized, for instance, social groups (i.e. families, migrants, nationals, tourists, local authorities) or social classes (the proletariat, bourgeoisie, or the middle-class). Social actors of this kind may eventually act as the relevant social units involved in property relations. Moreover, the social units may be institutions, actors of a fictitious nature, whose existence as such is dependent upon normative statements. For example, this is the case of

multinational corporations, non-governmental organizations, public administration agencies, and neighborhood associations. They are all artificially constituted as institutions in order to make certain social practices of individuals and social groups possible.

Valuables are things constructed as property objects. Not all things in the world are regarded as valuables, nor are the values given to a thing the same in different places, periods of time, or for different social actors. Moreover, property objects do not necessarily have an exchange value, although this is often the case in capitalist society. There is of course a great variety of material and immaterial things that somehow can be owned, in respect to which rights and obligations are established, and meanings are ascribed by social actors. There is an almost infinite list of examples of objects over which property relations are exercised. The wide range of concrete, material things regarded as valuables include long-standing property objects such as houses, farmland, office buildings, motorized vehicles, and trees. The universe of intangible, immaterial things regarded as property objects ranges from financial capital to commercial brands, from codes of human genetic material to computer software. There are indeed plenty of examples of new valuables that have been created that were unthinkable until very recently.

Sets of rights and obligations are also essential elements of property relations. This concept refers to the entire bundle of rights and obligations that are distributed among different holders of a thing, that is, all possible analytically distinguishable rights and obligations that are attached to a single valuable. For instance, the right to use a house can be analytically distinguished from the right to sell it and the social unit that is the holder of each one of these rights may not be exactly the same. The obligation of paying taxes on the house is distinguishable from the obligation of maintaining it. One of these rights and obligations is not necessarily superior to the other, because they may actually have different sources of legitimation. There are also a few master categories comprising a range of rights and obligations. For instance, the right to be a tenant of a house may be derived from ownership, which is the master category. The total set of rights and obligations that social units can have with respect to property objects is constantly being reinvented. They change because society continuously develops new forms of using and negotiating things regarded as valuables.

The elements of property relations are interconnected at different layers of social organization, and this takes the form of normative statements that specify rights and obligations of social units towards



valuables. At the ideological layer, property relations include general cultural ideals. For instance, they comprise competing grand ideologies over the roles of the statehood, such as communism, neoliberalism, and welfarism. Also, more specific ideological elaborations, such as possessive individualism and the fetishism of private ownership are considered at this layer of analysis. These ideologies comprise symbolic narratives conveying an immense number of images about how property relations should look. Social actors' worldviews towards property relations are reflected at the ideological layer. Property at this layer is not only distinguishable from the legal-institutional layer, but can actually deviate markedly. However, the diverse ideological expressions of property often find some correspondence at the legal-institutional layer in the sense that vague and general normative statements are specified and delineated into formal normative statements.

At the legal-institutional layer, a large set of formal norms over property relations can be found. In contemporary society, property relationships are formally institutionalized to a high degree by normative commands given by the state. There are of course many institutions in society, but frequently the main formal norms over property relations are explicitly formulated and enforced by the state and its institutional agencies. Therefore, property relations at this layer usually express the extent to which the state is expected to protect the interests of the concerned social units in respect to a given valuable. However, under certain circumstances, formal norms over property relations may also originate from institutions other than the state, such as the church, the university, and so on. As on the other layers, normative statements over property relations at the legal-institutional layer are not always coherent.

Finally, property relations become manifest at the layer of concretized relationships. This concept refers to the actual relationships in everyday life between social units with respect to concrete valuables. Owners' strategies and practices to exclude must be analyzed at the layer of concretized relationships. Non-owners' strategies and practices to resist exclusion must also be interrogated here. This includes unauthorized and even illegal actions, such as the occupation and use of land regardless of the existence of property titles. The difference between property relations at the legal-institutional and concretized relationships layer is a pervasive aspect of social life. The normative statements at this layer are sometimes remarkably different from normative statements found at the ideological and legal-institutional layers. As a matter of fact, property relations at the three different layers

may vary significantly. Moreover, this variability cannot be reduced by collapsing one layer into another (F. von Benda-Beckmann, K. von Benda-Beckmann & Wiber, 2006: 3, 15-16).

Property relations can be relatively stable and enduring when seen from a social change perspective, but they are not fixed and constant (Azuela, 2007: 1211). Accordingly, the normative statements over property relations found at each of these three layers of social organization may change at different rhythms and for different reasons. Conflicting interrelationships between normative statements at the three layers must therefore be at the center of the empirical analysis of property relations and neither one should be privileged. The theory of property outlined by F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber is particularly useful to grasp the transformations that property relations suffer through time. When concerning public spaces, they can themselves be analytically described in terms of property relations. Indeed, plazas, parks, streets, and beaches not only exist in relation to privately-owned places, they can be theorized as property objects. Different social units have different rights and obligations towards public spaces as valuables. Even if normative statements over public spaces happen to be the same at the legal-institutional layer, it is highly plausible that relevant differences will be observed at the other two layers of social organization.

### ***3.4 The Theory of Norms***

The theory of property relations outlined by F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber suggests that there are normative statements connecting property elements at the three analytical layers. In fact, the existence of a plurality of norms is taken into account. This theory also corroborates the fundamental socio-legal insight suggesting that there can be normative order without explicitly formulated and institutionalized norms (see, for instance, Macaulay, 1963; Ellickson, 1991; MacCormick, 2007), an idea akin to legal pluralism. The analysis of property relations must consider not only formal normative statements found at the legal-institutional layer, but also informal normative statements found at the ideological layer and the layer of concretized relationships. However, the theory of property relations neither elaborates a concept of norms nor explicitly distinguishes between different types of norms. For instance, the normative dimension of ideologies is not sufficiently interrogated. Similarly, a more detailed discussion of the specificity of the norms

found at the layer of concretized relationships is missing. For these reasons, the explanatory potential of the theory of property relations is enriched once it is combined with a theory of norms and normative action.

There is a wide range of theoretical perspectives on norms that can be found in various disciplinary fields (see, for instance, Pocar, 1997; Posner, 2000; Therborn, 2002; Bicchieri, 2006; and the volumes edited by Hetcher & Opp, 2001; Drobak, 2006). However, there is a need for a more suitable theory of norms for socio-legal studies. The best formulation thus far can be found in the work of Håkan Hydén and Måns Svensson (2008), entitled *The Concept of Norms in Sociology of Law*. Indeed, they posit an insightful way to conceptualize norms and normative action that fits into the context of socio-legal scholarship. In short, this theory departs from a definition of normative action, which is understood as “action driven by a norm about the right thing to do” (Therborn, 2002: 864). A norm is defined as “a direction of action, which under similar conditions gives rise to repeated actions” (Hydén, 2004: 6). Hydén and Svensson elaborate on this definition by distinguishing between the “essential attributes” and “accidental attributes” of norms. While the former are common to all types of norms, the latter make a type of norm analytically distinguishable from other types, making possible to classify norms in different categories, that is, to construct a typology.

At least three attributes are essential to all types of norms, according to Hydén and Svensson (2008: 134-137). First, norms consist of imperatives that guide actions. They are behavioral instructions and carriers of general prescriptive messages about what should be done in particular situations. Imperativeness is therefore an essential attribute of any type of norm. That there are situations where instructions are rejected by social actors does not invalidate the potential of the norm for influencing actions. Rather, the concept of norm requires the possibility of violation of a given instruction of action, often but not necessarily followed by a reaction towards the wrongdoers. Second, norms are socially reproduced. Whether a norm exists or not is an empirical question, since its existence is observable in concrete social contexts. Norms are inter-subjective in character; they are reproduced by groups in a society in a similar way. They are perceived, experienced, interpreted, and communicated by social actors who react to them or expect others actors to do so. Third, norms reflect social actors’ perceptions of the surrounding expectations of other actors regarding their own behavior. This refers mainly to a person’s individual

understanding of the existing pressure to make his or her own actions comply with the instructions of a normative statement. If one of these three attributes is not related to a given statement it cannot be sociologically described as a norm.

There is however a plurality of norms in society that influence behavior differently. The theory of norms suggests that accidental attributes are central to elaborate the analytical distinction between different types of norms (Hydén & Svensson, 2008: 137-141). That is, the characteristics of norms differ in relation to their accidental attributes. For instance, a binary classification of norms including legal norms and social norms would mean that they share the same essential attributes, but not the same accidental attributes. For example, they certainly can be considered to constitute different types because the sanctions associated with legal norms are very different in character from sanctions associated with social norms. In this example, therefore, sanctions are taken as an accidental attribute of norms. Surely, the number of accidental attributes to be considered (i.e. sanctions, the origin of the norm, the arena in which it is socially reproduced, the functions of the norm) as well as the various types of norms to be distinguished (legal norms, social norms, technical norms, bureaucratic norms, economic norms etc.) are theoretical choices. It is a crucial choice because one must construct a typology of norms with adequate operational relevance for orientating socio-legal research.

Several tentative typologies of norms have been proposed to carry out empirical studies of a wide range of socio-legal topics. The typology distinguishing social norms and legal norms is the most frequently explored in the literature (see, among others, Pocar, 1997; Posner, 2000; Larsson, 2011), but some attention has also been given to other binary typologies such as professional norms *vis-à-vis* legal norms (see Leo, 2011) and legal ideals in the form of human rights contrasted to legal norms (see Olsson, 2003). However, for the purposes of my own study, binary typologies tend to reduce complexity in misleading ways. Given the recent findings in the field of legal geography, I believe these kinds of dichotomous classification of norms do not offer an adequate starting point for studying public space regulation. The risk is to perpetuate instead of challenge longstanding dichotomies in sociology of law scholarship, which are related to an excessive emphasis on debates such as ‘law in books’ *vis-à-vis* ‘law in action’, local implementation of national legislation, lack of enforcement of legal rules, or discrepancy between the content of legal norms and social norms (debates as old as the work of Pound, 1910, one of the founders

of sociology of law as a discipline). One of the main strengths of Hydén and Svensson's theory of norms is to force a way out of binary typologies.

Only a non-binary typology of norms is suitable to complement F. von Benda-Beckmann, K. von Benda-Beckmann and Wiber's theory of property relations. It is too difficult to grasp the normative statements found at the ideological layer, legal-institutional layer, and layer of concretized relationships through any dichotomization. A conceptual triad is needed in order to integrate the analysis of norms and the analysis of property relations at a theoretical level. For this reason, I argue that at least three different types of norms should be analytically distinguished: legal norms, ideological norms, and social norms. On the one hand, these types of norms share the essential attributes that were discussed previously. On the other hand, they differ substantially in respect to a number of accidental attributes, namely their origin, the arena in which they are reproduced, and the mechanisms for their enforcement and implementation. Moreover, they are closely related to the three layers of social organization in respect to property relations. I claim that public space regulation can be analyzed in a more comprehensive way once the interplay among these three types of norms is taken into account.

Legal norms are regarded as the most complex, elaborate, and visible type of norms, due to the strong and widespread belief in the rule of law in contemporary Western society. Legal norms consist of a set of formalized normative statements, explicitly articulated by means of statutory texts, judicial decisions, and planning documents. Norms of this type must be related to institutions, which are social actors of a fictitious nature constituted by a set of legal norms. They come from a variety of social institutions, including the state and its institutional agencies. Legal norms are reproduced in a particular arena, the legal system, which includes not only courts, but also a wide range of public administration agencies. The mechanisms for their enforcement are very bureaucratic and clearly defined. Sanctions against violations of this type of norms are imposed upon individuals by institutions. They are ultimately enforced by the coercive violence of the state. There is of course diversity and hierarchy among legal norms. For instance, they can have either substantive, constitutive, or procedural functions. Legal norms can also be binding or non-binding, depending on whether or not allegations of incompliance can be submitted to judicial appreciation. They can even take the form of metanorms, that is, norms about norms.

Ideological norms are conceptualized as much less elaborate and relatively invisible. They are vague and indeterminate in character, but extremely pervasive in society. Although unwritten, their normative content can somehow be visually communicated, and articulated in explicit terms. The concept of ideological norms is an operational tool that can be used to grasp the normative dimension of ideologies, that is, the way through which ideologies influence normative action in society.<sup>22</sup> Norms of this kind actually express the interests of social groups, but manifest themselves as a comprehensive set of normative ideals proposed by social groups to society as a whole. They are not reproduced in association with any specific social institution; rather, they are informal and non-institutionalized norms that are reproduced in the arena of mass culture and technical knowledge. Ideological norms are not ultimately enforced by the coercive force of the state; instead, they are related to indirect mechanisms for sanctioning non-complaint behaviors, which under capitalism tend to entail economic constraints. Conformity with ideological norms is expected to positively affect the interests of an entire collectivity, not only the interests of a few social actors. Similarly, the consequences of non-compliant behaviors are expected to undermine the interests of the entire collectivity.

The concept of social norms refers to the informal and non-institutionalized norms, which are reproduced in the arena of everyday life. These norms are associated with people's everyday relationships in any kind of tight-knit community: the family, workplace, or neighborhood. Indeed, individuals tend to follow certain norms established within the communities or associations they identify themselves with. They know that their actions are subject to the approval and disapproval of other members of the communities to which they belong, communities that inevitably develop a set of norms to guide the behavior of their members. Since there are diverse communities in society, there are also diverse norms that fall under the broad concept of social norms: family norms, professional norms, religious norms, and so on. Social norms are not ultimately enforced by

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<sup>22</sup> There are some examples of scholars working in other fields who use the concept of ideological norm. For instance, McRobbie (1994: 203) refers to "[...] daily endorsement (not to say enjoyment) of heterosexuality as an ideological norm in the world of the mass-produced text and image [...]" and Ferner et al. (2005: 724) argue that "anti-unionism is a deeply embedded core ideological norm within the U.S. business system". Nonetheless, to my knowledge, such a concept has not been developed within a theory of norms or for the purpose of carrying out empirical socio-legal research; thus, I consider that this dissertation introduces it as a new socio-legal category.

the coercive force of state or by other social institutions. Sanctions typically affect only an individual or a small group of individuals within the community, and gross violations of social norms may lead to a member's rejection or exclusion.

In the present work, normative action with respect to public space in tourist cities is analytically explained with a focus on the interplay between these three different types of norms: legal norms, ideological norms, and social norms, which are of course subjected to social actors' interpretation. The analysis of the ways that different actors understand these norms and accordingly guide their actions, demonstrates how different types of norms relate to each other. It is possible to theorize this relationship in terms of the discrepancy between the content of different types of norms. In addition, it makes sense to identify some kind of causality mechanism through which the content of a norm influences the content of other norms. Finally, this discussion requires the analysis of different types of norms and norms with different content competing to influence social actors' behavior and providing what are to a certain extent incommensurable instructions for action. The starting point must be the identification of the relevant norms regulating public spaces, the description of the dynamics of the conflicts and changes that are related to their origin, reproduction, and enforcement, as well as an explanation of the concrete context where they assumed significance to social actors.

### ***3.5 The Theory of Tourist Attractions***

The theories discussed in the previous sections – the theory of the production of space, the theory of property relations, and the theory of norms – consist of middle-range conceptual formulations with great analytical utility for understanding public space regulation in different empirical settings. Nonetheless, the operationalization of such theories to study the context of the tourist city inevitably requires an additional conceptual apparatus, the theory of tourist attractions. This is to say that the tourist city is not only a particular case of a general phenomenon concerning the normative dimension of the production of space; rather, in the terminology of Marx's dialectical materialism, it should be regarded as the concrete universal. That is, the tourist city, with its own peculiarities, is one of the concretized expressions of the production of space in globalized capitalism. At the same time, globalized capitalism contains within itself the tourist city as one of its concretized manifestations. Lefebvre's critique of everyday life already emphasized

the double process of capitalist spatial development during the second half of the 20<sup>th</sup> century (see Gottdiener, 2000; Kipfer, 2002). On the one hand, capitalism has maintained itself by spreading across the entire planet. On the other hand, it has extended its tentacles into new economic sectors, including art, science, urbanization, and leisure.

As the theory of the production of space suggests, in contemporary capitalist society not only do commodities that are to be consumed by people circulate across places, but the people themselves also circulate throughout commodified places (Lefebvre, 1991: 352-354). Tourism, now a globalized social phenomenon, is nothing but the process of consumption of space. Indeed, tourism is about people who temporarily leave their regular places of work and residence in search of pleasurable cultural experiences somewhere else. Until the end of the Second World War, this practice was very limited. Thanks to paid vacations for waged workers and new transportation technologies, in particular the development of jet flights and airline companies, travelling has ceased to be an exclusive privilege of the upper-classes. Although there are many modalities of tourism that remain accessible only to a small minority, tourism has converted into a form of mass leisure. As a result, both upper and middle-classes now spend time and money travelling to tourist destinations, and to some extent experience tourism as part of everyday life, although obviously not in the same way. Not surprisingly, from concerns with physical and mental health to concerns with social status, various social groups understand tourism differently.

The extension of capitalism to the consumption of space opened the ground to the tourism industry. Today it is one of the largest sectors of the service economy. The fundamental goal of the tourism industry is to deliver pleasurable cultural experiences as commodities, although its productive units actually offer a set of goods and services. The goods and services offered by the tourism industry are said to be characterized by a “spatial fixity”, as they have to be provided in a particular place to be really valuable (Urry, 2002: 38). For instance, a travel package for a holiday in Paris is a commodity with an exchange value that comprises a set of goods and services (hotel accommodation for a few of nights, drinks and meals in restaurants, round-trip airline tickets, and tickets to climb into the Eiffel Tower). The use value given to the travel package by tourists depends on their understanding of the promised cultural experience of enjoying the tourist attractions of the city (gazing at the facades of its buildings, taking a stroll in its promenades, and enjoying the French cuisine). Consider, for example, a postcard from the Eiffel



Tower bought in Milan. Surely, it does not have the same value as an identical postcard bought in Paris; it lacks meaning without the actual experience of visiting the French capital. Similarly, by definition there is no way to authentically experience Venice through virtual sightseeing on the web; one must go to Venice.

It was not until Dean MacCannell's 1976 book, *The Tourist: A New Theory of the Leisure Class*, that the construction process of tourist attractions was theorized in a more consistent way. He claimed that the cultural experiences delivered as commodities by the tourism industry are organized around the concept of the tourist attraction. According to MacCannell, a collective imaginary collective sense is produced indicating that certain sights must be seen by tourists. "Even under conditions there is no end of things to see, some mysterious institutional force operates on the totality in advance of the arrival of tourists, separating out the specific sights which are the attractions" (MacCannell, 1999: 42). That is, sightseeing is a highly programmed cultural experience. If one goes to Paris, one must visit the Eiffel Tower. Interestingly enough, locals are the only ones exempt from this ceremonial obligation. The theory of tourist attractions seeks to explain the mysterious institutional force determining whether or not a sight is worth being seen by tourists. As John Urry emphasized in *The Tourist Gaze*, another classic of tourism studies, the cultural experiences associated with tourism privilege the sight, that is, a particular way of seeing things. It is not by chance that cameras have become a tourist icon, since what is consumed is essentially the image of something (Urry, 2002).

MacCannell's theory analytically distinguishes between three elements of tourist attractions: the sights, the tourists, and the markers. From these elements, the markers are central to the distinction regarding whether or not a sight is worth being seen by tourists. This is because a marker represents something to someone; it is a representation of a sight to potential visitors. Usually the first contact tourists have with an attraction is not with the sight itself, but rather with a representation of it. Sometimes a sight itself does not make any sense for tourists and can even pass unnoticed as an attraction if it doesn't have a marker. To put it simply, a marker is a piece of information about a sight that can take the form of a picture, guidebook, map, souvenir, or even a commentary made by someone. "If a sight is not mentioned in any guides, it is unmarked, it is not an attraction from the standpoint of institutionalized tourism, and it is not likely to be visited much by tourists" (MacCannell, 1999: 61). There is an enormous difference, for example, between

something that is mentioned by a young French woman living in Paris to her foreign friends as something noteworthy and the sights systematically marked in guidebooks, postcards, and tourist maps as something that tourists must see in order to really experience Paris.

The crucial role of markers is directly related to the fundamental importance of promotion for tourist destinations. There is a need to produce anticipation of the cultural experiences amongst potential visitors in order to really attract them. Indeed, promotion strategies can make a tourist city and its attractions become known worldwide. Marketing a specific image of the city is about conceiving a coherent representation of its urban space. However, cities cannot usually convert the totality of their urban perimeter into tourist attractions. Producing a city for visitors is fundamentally about separating the tourist space from the rest of the city. In every tourist destination a tourist zone is delimited. Only a few sights are selected to become tourist attractions. A well-defined “tourist bubble” is ultimately designed to separate the tourist space from the rest of the city, shielding visitors from the unpleasant aspects of urban life (Judd, 1999: 36). Attractions tend to be concentrated in a bounded number of tourist districts. There might be a division of publics between the tourist districts, although often they form an internally connected zone in order to maintain the flow of tourists from one attraction to another.

Under conditions of fierce inter-urban competition (Harvey, 1989b), the implementation of the tourist model of development demands aggressive tactics in the battle for a privileged position in the tourist market. Image building and massive advertisement of tourist attractions are not enough for a city to achieve success. This depends not only on tourist promotion, but also from the visitors’ perceptions of what they actually experience in the city. The goods and services sold by the tourism industry – airline companies, car rental firms, travel agencies, and hotel and restaurant chains – are quite similar everywhere, especially today when this industry is to a large extent under the control of transnational corporations that make the majority of the profits. Therefore, it is relatively easy to move the capital invested in the exploitation of the tourism business in a particular tourist city to somewhere else, as soon as the cultural experiences associated with other tourist destinations and tourist attractions are discovered to be more profitable. Hence, cities are expected to make their urban spaces more and more attractive to tourists in order to remain competitive destinations. If they do so competently, the expected outcomes are private investment, jobs creation, and increased revenues.

Local governments, which have long been allied with the tourism industry, have been playing the role of entrepreneurs in the production of tourist attractions, both creating sights and promoting markers. Places produced with the deliberate purpose of catching the gaze of tourists and provide for pleasure cultural experiences are more likely to become marked as tourist attractions. Although public-private partnerships have become increasingly more common, local governments most often bear the largest share of the bill concerning the production of tourist attractions. Yet the civic energies and financial resources of tourist cities are not infinite. It is difficult to find enough financial resources available in the budget to meet the heavy investments required to continuously promote, build, and maintain high quality tourist destinations. Similarly, there are limits to the ability of political leaders and government officials to give attention to the provision of infrastructure and public services. Consequently, the production of a tourist city is likely to give place to a hierarchy of concerns and priorities in terms of public investment between the tourist zone and the non-tourist zone, between the interests of visitors and the interests of residents (Eisinger, 2000).

The entrepreneurial role assumed by tourist cities and the search for public-private partnerships with the tourism industry have of course affected the politics of public space. Indeed, the quality of the public spaces where tourists circulate in a tourist city is expected to be at a high standard. As the material sites for a set of social relationships, places such as streets, plazas, beaches, and parks are likely to provide cultural experiences of unequivocal authenticity from the perspective of the tourist trade. Thus, public spaces themselves are frequently marked as tourist attractions. Distinct from other kinds of tourist attractions, in principle public spaces usually are accessible to tourists of all kinds and are free of charge. Visitors spend money with lodging, meals, city tours, spectacles, souvenirs, transport and so on, but public spaces as tourist attractions are expected to be enjoyed for free as cultural experiences. Whether or not explicitly marked as tourist attractions, a network of public spaces is essential to any tourist bubble, since they are part of the environment internally connecting and immediately surrounding the tourist attractions. Yet, the majority of the public spaces of a tourist city are situated outside of the tourist bubble. Not every public space of a city is of interest to tourists and the tourism industry, quite the contrary.

In tourist cities, the contradictions between the tourist zone and the rest of the city are likely to be noticeable, especially when urban public spaces are at stake. These contradictions, however, are not only about the degree of presence of tourists in different public spaces

situated in the interior of the urban perimeter of the same city. They are also about social inequalities, exclusion, and uneven urban development. Contradictions are socially produced and reproduced daily through the selective control of the public of users, that is, by means of the state at the local level whenever it exercises its repressive role of controlling the tourist bubble and shielding visitors from unpleasant experiences of everyday urban life. Also, contradictions are continuously reinforced by the state whenever it exercises its promotional role by unequally distributing public investments in the promotion of public uses, favoring the tourist zone to the detriment of the rest of the city. The theory of tourist attractions focuses mainly on explaining how representations of space are conceived. I argue that this is an aspect of crucial relevance, because the ideological norms of the tourist city arise precisely within the process of conceiving tourist representations of space that benefit hegemonic social groups.

### ***3.6 The Theoretical Design of the Present Study***

In order to understand how patterns of exclusion concerning public spaces are successfully produced and shape the everyday life of tourist cities, the bundle of rights and obligations that is hidden behind the category of common use property must be unpacked. In tourist cities, some places are selected to become attractions for visitors, while others are kept outside of the tourist market. Such a process raises a contradiction between the tourist zone and the rest of the city. On the one hand, entrepreneurs and public administration agencies tend to direct financial and non-financial resources towards places situated in the tourist zone, while the places outside of it tend to remain neglected. On the other hand, non-profitable presences, actions, and discourses within the tourist bubble often become subjected to a series of obstacles in order to favor those encouraged by the tourism industry. The production of the tourist city also affects property relations in urban public spaces, which are valuables with a singular socio-economic importance. This is a process mediated by norms and normative action, and to a great extent can be explained in terms of the differences between the norms regulating public spaces in the tourist zone and those in the rest of the city.

Public space regulation can be theorized as the conflicting interplay of three types of norms: ideological norms, legal norms, and social norms influencing the normative action of different social actors. In tourist cities, a particular set of ideological norms related to public

spaces is likely to arise within the process of conceiving representations of space that benefit hegemonic groups in society. Legal norms are also developed and provide concrete tools and detailed instructions about how the state at the local level – more precisely, the local authorities – should perform promotional and repressive roles to manage public spaces. This is because there is a call for state intervention in the spatial practice of the tourist city, which is also influenced by ideological norms. Finally, social norms are redesigned by social groups to cope with new challenges posed by the socio-economic transformations associated with the production process of the tourist city. As a result, property relations are no longer the same for public spaces situated inside and outside of the tourist bubble. By reinforcing the division of the city into zones, norms regulating public spaces are likely to reproduce and reinforce the contradictions between the tourist bubble and the rest of the city.

The theoretical design of the present inquiry combines the theory of the production of space, the theory of property relations, the theory of norms, and the theory of tourist attractions. This provides for a comprehensive set of operational concepts for carrying out empirical socio-legal research. The construction of a non-binary typology of norms through the theory of property and norms, distinguishing between legal, social, and ideological norms, is the main theoretical contribution that this chapter has made to socio-legal studies in the field of legal geography. Indeed, I follow three analytical steps to theorize public space regulation. First, different types of norms related to public spaces are identified at the three layers of social organization. Second, the interplay of norms is analyzed at the layer of concretized relationships and illustrated through a number of empirical examples. Third, norms and normative action are analytically related to empirical findings about patterns of exclusion in respect to public spaces. The next chapter explains how this theoretical framework informed the collection and analysis of empirical data, that is, the methodological design of the present study.

## **CHAPTER 4**

### **Researching Norms in the Context of the Tourist City: Methods for a Multiple Case Study Analysis**

In sociology of law there is always a need for contextualization. Socio-legal research starts from the basic assumption that normative action cannot be explained sociologically except by putting the meanings that social actors ascribe to norms in context. Considerable attention must be paid to contextual similarities and differences of circumstances such as historical temporality, geographical location, and socioeconomic specificities. In the present work, norms regulating public spaces are studied in the context of tourist cities in Latin countries of Europe and America. This is an inquiry about tourist cities, understood as urban centers where tourism is a significant component of the local economy (Fainstein & Gladstone, 1999: 21). Although the emergence of tourist cities is a global phenomenon, the scope of this investigation is limited to urban centers situated in Latin countries of Europe and America (Pérez-Perdomo, & Friedman, 2003: 01-02). In addition, this is an empirical study with a temporal focus on events that occurred in the last decade (2001-2011). The city is the unit of analysis, the concrete entity to be studied as a case. There are many cities that have this common context but only a few cases are studied within the present inquiry.

This investigation was designed as a multiple case study analysis (see Stake, 2006).<sup>23</sup> The decision to carry out an analysis of public space regulation covering the study of multiple cases was taken because contextual differences between diverse empirical settings are as important as contextual similarities. Surely each city has a unique story to tell about public space regulation, which is to a certain extent insightful in itself. Yet, the analysis of public space regulation as a phenomenon is central to the present inquiry rather than the particularities of the cases. I look mainly at the common characteristics of this phenomenon across the cases. Data-gathering and reporting activities concerning the individual case studies were organized and conducted separately, but the research question and sub-questions are the same for all case studies. Also, they were designed to have a common theoretical and methodological framework. They all relied on

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<sup>23</sup> According to Yin (2009: 18), “a case study is an empirical inquiry that investigates a contemporary phenomenon in depth and within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident”.

the theories explained in Chapter 3 and the collection and analysis of qualitative data were based on similar methodological tools, which are described in this chapter. Moreover, the case studies were designed to include the same set of embedded themes concerning examples of conflict over public spaces.

This chapter is divided in two main sections. In section 4.1, I explain the reasons behind the choice of such diverse settings such as the cities of Acapulco, San Sebastian, and Florianopolis as the cases to be studied out of an almost infinite list of tourist cities of potential interest for understanding public space regulation. I also discuss the motivation of the choices regarding the selection of the embedded themes, namely street vending, political activism, street maintenance, and square redevelopment projects. In section 4.2, I present the methodological design of the individual case studies included in the present inquiry. I elaborate on the particularities of the methods of data collection and analysis that were used to carry out this empirical research in a more detailed manner. Qualitative data was gathered mainly by means of extensive fieldwork, and the sources included contextual literature, tourist materials, observations, newspaper reports, documents, and interviews. The aim of this chapter is to show not only how the research design was replicated in the three individual case studies, but also how it could be potentially replicated in the study of many other cases of interest.

#### ***4.1 The Selection of Cases and Themes***

Comparing cases is out of place in a multiple case study analysis (Stake, 2006: 83-84). In this research strategy, the study of individual cases is of interest to the extent in which they are considered as belonging to a larger collection of cases that exemplify the same phenomenon (Stake, 2006: 05). Although the research focus is centered on the phenomenon that binds the cases together, the study of individual cases aims at illustrating the contextual uniqueness of particular manifestations of the phenomenon in different settings. This dissertation was designed to include three cases concerning public space regulation in tourist cities, which were studied empirically as instrumental means to understand this phenomenon in a broader sense. Accordingly, I relied primarily on evidence from these case studies to analyze the phenomenon of public space regulation in tourist cities. Secondarily, I relied on what was already known about public space regulation in general. Thus, I started by studying the cases of Acapulco, San

Sebastian, and Florianopolis separately. Afterwards, I related my own findings to the work done by others. I aim to draw assertions and conclusions from the study of the cases that might be useful for thinking about public space regulation in similar empirical settings.<sup>24</sup>

The cases were chosen among many possible alternatives. The selection of cases is a delicate issue within multiple case study analysis since it is qualitative in character. Because something relevant can be potentially learned from almost any case, there is no single answer to the questions about the number of cases that should be considered or the criteria for making these choices.<sup>25</sup> The desirable scientific goal in a multiple case study analysis is replication and saturation, that is, the design of prior case studies should be replicated in subsequent ones and the last case studied is expected to provide little new evidence compared to the previous ones (Small, 2009: 25). However, an increase in the quantity of cases included in a multiple case study analysis is likely to result in a decrease in the standard of quality of the individual case studies. In the present study, selection criteria addressed aspects such as the relevance of the cases to understand the phenomenon, the contextual diversity between them, and the opportunities to learn about context and complexity from a set of cases. Practical issues were considered as well, such as available resources, time constraints, and data accessibility (Stake, 2006: 23-25; Yin, 2009). In what follows, I explain the motivation for the choice of cases and embedded themes.

#### *4.1.1 The Tourist Cities Studied as Cases*

From Cancun to Venice, from Rio de Janeiro to Bilbao, there are plenty of tourist cities in Latin countries of Europe and America that could be of potential interest for the present inquiry. However, tourist cities are not all the same. Indeed, the literature on urban tourism distinguishes between three types of tourist cities: resort cities, historic cities, and converted cities. Resort cities are urban centers whose process of urbanization was, from a very early point, intentionally oriented towards building a tourist destination. Historic cities on the other hand rely on their urban past, which is transformed into cultural

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<sup>24</sup> In the qualitative research methods literature, this idea is expressed by the concept of transferability, which is often contrasted to the concept of generalization that is used in quantitative research.

<sup>25</sup> In qualitative research there are no reasons to select cases using sampling criteria akin to quantitative research such as statistical representativeness. One must seek another set of criteria for selecting cases (see, among others, Stake, 2006: 26-27; Yin, 2009).



experiences of interest for visitors. Lastly, converted cities are former industrial cities adapted to new uses through the construction of modern tourist attractions and facilities (Fainstein & Judd, 1999: 262-267). For instance, Cancun, Venice, and Bilbao, are among the purest cases of the ideal-types of a resort, historic, and converted city respectively. Taking this classification into account, I found that the resort city was the ideal-type most likely to provide a persuasive illustration of how a set of norms regulating public spaces emerges and changes as part of the process of producing urban spaces for visitors.

The cities of Acapulco, San Sebastian, and Florianopolis all have an urbanization process strongly related to the economic exploitation of tourism in common. They are international tourist destinations and urban centers of considerable relevance in their respective national contexts. Also, they are cases of middle-size cities, neither too big nor too small, which was a considerable advantage in the management of practical research issues. Moreover, these cases are suitable to replication of the same individual case study design. As far as their urbanization process is concerned, they can be classified as resort cities, because they developed as major urban centers oriented towards meeting the expectations of tourists from a very early stage. Nevertheless, they are far from representing the purest cases of this ideal-type, and are actually much more complex and unique than their character of resort cities might suggest. The three cities chosen as cases actually offer great contextual diversity to explore the phenomenon of public space regulation. First of all there is the simple fact that Mexico, Spain, and Brazil are very different countries in many respects.<sup>26</sup>

The first case analyzed in the present study is Acapulco, one of Mexico's most contradictory urban centers. Acapulco is a pioneer resort city situated on the northern end of the Pacific Ocean (see Figure 1). The city has attracted visitors since the late 1920s, benefiting from its geographical proximity to the United States and Canada to become an icon of mass tourism in Latin America. Millions of tourists arrive in Acapulco every year to enjoy the high temperatures, beautiful beaches, and nightlife. However, international tourism is no longer the largest percentage of tourist arrivals and the consumption power of visitors is now lower than ever before. That is, Acapulco is a tourist destination in crisis. The tourist growth that attracted waves of national migrant

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<sup>26</sup> "National regimes make a difference in how public space is used, how property relations operate, and in the kinds of resources people have access when they seek to transform relations of power" (Staeheli & Mitchell, 2008a: xxiii, footnote).

workers has made Acapulco one of the largest urban centers in the State of Guerrero, one of the poorest states in Mexico. The local population is estimated to be 790,000 inhabitants,<sup>27</sup> and is almost completely dependent on formal and informal activities directly or indirectly related to tourism. Severe inequalities in income distribution persist. The majority of the poor live in informal settlements, while gated communities are proliferating.



**Figure 1 – Map of Mexico**  
**Source: National Geographic Society, 2009**

San Sebastian (in the Basque language, *Donostia*, and officially named *Donostia-San Sebastián*) is the second city selected as a case. It is the capital city of the Province of Gipuzkoa, which is part of the Autonomous Community of the Basque Country (*Euskadi*), one of Spain's richest regions. Close to the French border and not far from the United Kingdom (see Figure 2), San Sebastian emerged as a resort city for the European elite as early as in the second half of the 20<sup>th</sup> century. After a period of decay during Francisco Franco's dictatorship, the city regained prestige among international tourists. The beaches along the Bay of Biscay, a gulf on the northeast end of the Atlantic Ocean, are now just one of many tourist attractions. The local economy is now diversified, but tourism still plays a key role. The majority of the

<sup>27</sup> The Municipality of Acapulco has 789,971 inhabitants, while the population of the State of Guerrero is estimated in 3,388,768 inhabitants, according to official figures (INEGI, 2010)

population of San Sebastian, estimated at 186,000 inhabitants,<sup>28</sup> benefits from high living standards. Even though, social inequality is still a significant issue, particularly during periods of economic crisis, and also for immigrants.



**Figure 2 – Map of Spain**  
**Source: National Geographic Society, 2009**

The third case is Florianopolis (or simply *Floripa*, as it is popularly known), the capital city of the State of Santa Catarina, one of the most developed regions of Brazil. Florianopolis is a seaside city on the southern part of the Atlantic Ocean (see Figure 3), with the geographical singularity of being formed by an ocean island and a peninsula on the mainland, linked by bridges. There are an estimated 410,000 inhabitants.<sup>29</sup> For many decades, in particular since the 1970s, activities directly and indirectly related to tourism have been central to Florianopolis' economy, although information technology has recently emerged as a very dynamic productive sector. Florianopolis remains the most important tourist city in Brazil's southern region. Due to geographical proximity, it attracts visitors from the neighboring states of

<sup>28</sup> The Municipality of San Sebastian has 182,026 inhabitants, while the Province of Gipuzkoa has a population of 702,897 inhabitants, according to official figures (EUSTAT, 2011).

<sup>29</sup> The population of Florianopolis is estimated to be 421,240 inhabitants. The State of Santa Catarina has 6,248,436 inhabitants, according to official figures (IBGE, 2010).

Rio Grande do Sul, Parana, and Sao Paulo, as well as international visitors from countries such as Argentina, Chile, and Uruguay. Tourists are mainly interested in the dozens of beaches found across the coastline of the island. Despite Florianopolis' consistent growth, social inequality is still rampant and thousands of inhabitants live in informal settlements spread across the city.



**Figure 3 – Map of Brazil**  
**Source: National Geographic Society, 2009**

#### *4.1.2 The Embedded Themes*

The present inquiry was intentionally designed to consider a set of themes embedded in the case studies of Acapulco, San Sebastian, and Florianopolis. A total of four themes were selected: street vending, political activism, street maintenance, and square redevelopment projects. These are thematic examples of conflict over public spaces that are well-known in the urban studies literature, and related to controversies of particular importance in the context of the tourist city. Street vending and political activism are controversial themes mainly concerned with the state's repressive role in controlling the public. Street maintenance and square redevelopment projects are themes of controversy in respect to the state's promotional role in allocating resources to the promotion of public uses. There are of course many

other themes of potential relevance, but a focus is needed in order to provide a sufficiently detailed account of the interplay of norms regulating public spaces at the layer of concretized relationships. This particular set of themes was chosen mainly because they offer opportunities for analyzing different types of public spaces – streets, squares, parks, and beaches – and are complex enough to challenge misconceptions over the segregation of urban functions – dwelling, work, circulation, and recreation.

Street vending is a longstanding controversial theme in Latin countries of Europe and America. To put it simply, street vendors can be defined as informal traders of goods and services who make use of public spaces to work. This activity of course has a long history in almost every city in the world. However, in recent decades it has been referred to as a major urban problem by many government officials, newspaper columnists, academics, and off-street merchants. There are those who associate street vending with public health risks, tax evasion, unfair competition, pirated products, tourist harassment, traffic congestion, contamination, and disorders of all kind. Some even link it to organized crime. Street vendors have become a central target of norms regulating public spaces, in spite of the claims suggesting that such a traditional activity is not only socially relevant but also a manifestation of the human right to work.<sup>30</sup> In Acapulco, because of the degree of informality of the local economy, there are highly visible conflicts around street vending. Yet, street vending controversies remain less visible in the cases of San Sebastian and Florianopolis.

The use of public spaces for political activism is another controversial theme. Most Latin countries of Europe and America have a relatively recent history of authoritarian regimes and political violence. Even if the great majority of the region is now progressing towards democracy, police operations aimed at the dissolution of rallies, marches, and demonstrations are still recent memories. In a democratic context, however, repression against protesters may occur even when they do not pose a serious threat to the government's authority. Indeed, more pressing concerns have justified strategies for controlling protest in plazas, parks, and streets. According to some observers, public protest has turned into an urban problem, and must be regulated due to its pervasive effects to the city, such as obstruction of the flow of traffic, perception of disorder and insecurity, and annoyances to ordinary

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<sup>30</sup> For a comprehensive overview, including a list of arguments in favor and against street vending, see Bromley (2000).

business life. But norms regulating public space may also undermine freedom of expression, which is essential to liberal democracy. Political activism is a theme of fierce controversy in San Sebastian, since the city is at the center of the Basque conflict. Controversies over political activism are also visible in Acapulco and Florianopolis, but certainly not as much so.

The promotion of public uses has a lot to do with everyday life issues such as street maintenance. This is a controversial theme because the physical conditions of streets may either encourage or inhibit particular users and uses. As the urban planner Jane Jacobs (1961: 29) famously argued, “streets in cities serve many purposes besides carrying vehicles, and city sidewalks – the pedestrian parts of the streets – serve many purposes besides carrying pedestrians [...] If a city’s streets look interesting, the city looks interesting; if they look dull, the city looks dull”. For the purpose of the present inquiry, street maintenance is defined in a broad sense as the set of services required to maintain the sidewalk in good state of conservation. This includes the maintenance and repair of the pavement, street furniture, and streetlights, as well as everyday services such as cleaning, sweeping, pruning, and gardening. This set of services depends on public investment and the action of government officials, which are usually regulated by a series of norms. In the city of San Sebastian, the local population is very concerned about the maintenance of streets. Yet, controversies over this theme remain less visible in Acapulco and Florianopolis.

Square redevelopment projects are also taken as a theme related to the promotion of public uses. Distinct from everyday issues involving maintenance, square redevelopment projects are taken as more occasional interventions aimed at creating or rehabilitating plazas, squares, parks, and public spaces for the use of the city’s inhabitants. Projects of this kind are developed under a normative framework, regulating the implementation and functioning of the interventions. The urban studies literature shows that conflicts of interest often take part at each stage of the conception and execution of square redevelopment projects. The outcomes tend to be quite ambivalent. In fact, they may neglect the more pressing needs of the poorest inhabitants and also lead to gentrification processes. In Acapulco, conflicts around this theme gained visibility after the Mexican federal government launched a program focused on the construction and rehabilitation of public spaces as a key component of its strategy to fight organized crime. In San Sebastian and Florianopolis, controversies over square redevelopment projects are not as visible.

## *4.2 The Case Study Protocol for Data Collection and Analysis*

The empirical research for this dissertation followed a case study protocol for data collection and analysis. A protocol of this kind is essential in carrying out empirical research in a multiple case study analysis, making it possible to replicate the same case study design in various individual case studies. Therefore, such a protocol was created to provide methodological guidelines to conduct single case studies. It contained a variety of techniques and procedures for collection and analysis of qualitative data. The multiple sources of data included in the case study protocol can be classified in at least six distinct categories: contextual literature, tourist materials, observations, newspaper reports, documents, and interviews. It was important to consider diverse materials due to the fact that the evidence capable of supporting assertions is not necessarily found in the same sources of data. Also, there is a need for triangulation in qualitative research, that is, the most relevant findings are likely to be stronger if they are corroborated by evidence from multiple sources of information.

Public space regulation in Acapulco, San Sebastian, and Florianopolis was researched according to this case study protocol for data collection and analysis. Access to the sources of data was obtained through extensive fieldwork, library research, and digital research carried out mostly between August 2010 and September 2011, in Mexico, Spain, and Brazil, although I also relied on data collected during preparatory stages. Acapulco, San Sebastian, and Florianopolis are the places that can be called ‘the field’ in the present inquiry. I spent at least four weeks in each of these cities to carry out field research, including sessions of observation, interviews, collection of tourist materials, and archival research. The time dedicated to field research was complemented by periods of bibliographical research in the relevant libraries in Spain, Mexico, and Brazil to collect contextual literature for the case studies. In addition, an important part of the sources were available on the Internet, making it possible to reduce the total period of time spent in the field. In what follows, I comment on how each one of the data sources included in the protocol was used in the case studies.

### *4.2.1 Contextual Literature*

Much can be learned about the uniqueness of the context of a particular case from social sciences’ multidisciplinary knowledge, such as works in distinct disciplines such as geography, urban planning,

history, anthropology, sociology, political science, and economics. The review of the contextual literature – journal articles, books, book chapters, academic theses – on Acapulco, San Sebastian, Florianopolis, and their respective regional and national contexts, was an invaluable source of data to understand a myriad of historical and contemporary aspects. Nonetheless, studies of this kind tend to represent obstacles for researchers. First, they are relatively limited in number and vary enormously in terms of scientific quality. Second, they are not likely to be available in English, but only in Spanish in the cases of Acapulco and San Sebastian, and Portuguese in the case of Florianopolis. Third, access to this literature often depends upon recurrent visits to local libraries.

In Mexico, research facilities are to a high extent centralized in the Federal District. The outstanding system of libraries at the main campus of the National Autonomous University of Mexico (UNAM) offers the richest collection of literature on the urbanization of Acapulco, the regional context of Guerrero, and the Mexican context in general. For this reason, in April 2011 I reviewed at UNAM contextual literature for the Acapulco case study. Library research there was supplemented in Acapulco by a visit to the small collection maintained by the Center for Research and Historical Information on Acapulco (CIIHA), a non-governmental organization. From this literature, at least four studies should be highlighted: two critical works from the 1980s assessing the social and environmental impacts of the urbanization process in Acapulco (see Campodonico & Nerys Fernandez, 1981; Ramírez Sáiz, 1986a), and two socio-historical accounts about the growth of the tourist Acapulco in the 20<sup>th</sup> century (see Escudero, 1997; Valenzuela Valdivieso & Coll-Hurtado, 2010).

Contextual literature for the case study of San Sebastian was reviewed between August and September 2010, at the libraries of the University of the Basque Country (UPV/EHU) and the Municipal Library of San Sebastian, where I benefited from a very rich and well organized collection of monographs and journal articles on local issues. There is exceptional quality literature focused on the social and economic history of San Sebastian in the decades from the mid-19<sup>th</sup> century to the Spanish Civil War (see, for instance, Larrinaga Rodríguez, 1999, 2006; Castells, 2000), including a number of studies in English (see Walton, 1996, 2002). Nevertheless, there is not as much material available on urban life in San Sebastian under Franco's regime. Among the works worthy of notice, is a study from the early 1980s on the process of urbanization of the city (see Calvo Sanchez, 1983) and an instructive account of the post-war period (see Luego Teixidor, 2000).



Library research for the case study of Florianopolis was carried out in November of 2010. I benefited from the comprehensive collection available at the libraries of the Federal University of Santa Catarina (UFSC), one of the best research universities in Brazil. The majority of the published and unpublished works about Florianopolis related to this case study were actually developed at UFSC. This includes material from various disciplinary fields such as geography, anthropology, political sociology, urban planning, and economics (see, for instance, the volume edited by CECCA, 1997; as well as the works by Lago, 1996; Ouriques, 1998; and Fantin, 2000). Interestingly enough, the interrelations between tourism and public spaces have already been addressed occasionally (for instance, see Vaz, 1991; Coradini, 1995; Pimenta, 2005). However, socio-legal research about this topic, taking Florianopolis as the empirical setting, is still missing.

#### *4.2.2 Tourist Materials*

Tourist materials such as tourist guidebooks, brochures, websites, postcards, and maps are artifacts collected due to their relevance as sources of qualitative data about representations of space. Guidebooks, brochures, and tourist websites were collected because they perform the function of markers, promoting destinations and influencing visitors' behaviors. They were used for identifying and describing the tourist attractions and the tourist districts of Acapulco, San Sebastian, and Florianopolis. In sum, the interpretation of the literal content of these materials made it possible to distinguish between the tourist zone and the non-tourist zone. The meanings of the images depicted on tourist maps and postcards were explored by means of a more sophisticated method of analysis, semiotics. This method provides the conceptual vocabulary to analyze how a particular image is structured and the effects it seeks to produce in an audience (see, among others, Rose, 2007: 74-79). The semiotic analysis of tourist maps was oriented towards the understanding of the ways through which the image of the cities being studied is represented, while the semiotic analysis of postcards focused on images representing public spaces.

For the case study of Acapulco, I collected three tourist guidebooks and brochures: the first is *Lonely Planet Mexico* (which is identified by the code Tg1), a guidebook in English found in bookstores around the world; the second is a guidebook in Spanish about Guerrero (Tg2), which is sold in Mexican bookstores; the third is a brochure in English about Guerrero (Tg3), which can be downloaded from the

website of the Mexico Tourism Board. I also used data from two tourist websites: the official tourist website of Acapulco (Tw1), managed by the Association of Hotels and Tourist Enterprises of Acapulco (AHETA); and the *Acapulco Travel Guide – Wikitravel* (Tw3), an open source international website. I collected three tourist maps, two of them leaflets distributed for free to tourists. The first map (Tm1) is printed by tourist establishments and can be found in local travel agencies, the second map (Tm2) is available in tourist information cabins, and the third map (Tm3) is a larger, high-quality wall map posted in local tourist establishments and public administration offices. In addition, I collected ten tourist postcards (Tp1 to Tp10) with varied themes and from different publishing houses, which are sold on the streets of Acapulco.

A total of three tourist guidebooks and brochures were used in the case study of San Sebastian. This collection included the influential *Lonely Planet Spain Travel Guide* (Tg4), and the Spanish version of two high-quality brochures published in several different languages and distributed for free to visitors. The first was a guide focusing on the city of San Sebastian printed by the local tourist office (Tg5) and the second a guide about the region printed by the Gipuzkoa tourist office (Tg6). I accessed material from two tourist websites: the official website managed by the local tourist office (Tw3) and *San Sebastian Travel Guide - Wikitravel*, which was built collaboratively on the Internet. I also selected three tourist maps of San Sebastian for analysis. The first map (Tm4), by far the most popular by tourists, is distributed free of charge by the local tourist office, the second (Tm5) is published by a Spanish tourist company and sold in newsstands, and the third (Tm6) is given by an international car rental company to its clients. Moreover, I analyzed data from ten tourist postcards (Tp11 to Tp20) depicting diverse places in the city. These postcards, edited by different publishers, are available in souvenir shops.

A very similar procedure was followed in the case study of Florianopolis. I relied on data from three tourist guidebooks: *Lonely Planet Brazil Travel Guide* (Tg7), a brochure about the region distributed for free to visitors by Santa Catarina's tourist office (Tg8), and a brochure distributed to tourists free of charge (Tg8) by the Association of Hotels, Restaurants and Bars of Florianopolis (SHRBS). The two tourist websites used as data sources included a popular website of tourist information about Florianopolis (Tw5) and the *Florianopolis Travel Guide - Wikitravel* (Tw6), a collaborative website. Also, three tourist maps of Florianopolis were analyzed, including two commercial maps (Tm7 and Tm8) sold in newsstands and souvenir shops, and a set

of partial maps of Florianopolis (Tm9) which are part of a brochure about local bars and restaurants, distributed for free to tourists. Finally, ten postcards (Tp21 to Tp30) from different publishers were collected in souvenir shops and newsstands.

#### 4.2.3 Observations

Direct observation is a methodological tool of great relevance for obtaining data about spatial practice. Indeed, spatial practice is the element of the conceptual triad that explains the production of space which can be grasped by describing the physical materiality of a site, as well as the behaviors that take place there – the actions and discourses of different individuals and social groups. Streets, plazas, parks, and beaches were the sites observed during the sessions. Since there are many public spaces in a middle-sized city and endless events of potential interest are going on in different places at the same time, carrying out systematic observations is out of the question for a researcher working alone and spending only a limited number of weeks in the field. In any case, the validity of structured and systematic observations to collect qualitative data would be questionable. Observations were very selective and subjective in nature. Selectivity however does mean that the tourist zones of Acapulco, San Sebastian, and Florianopolis were privileged, quite the contrary. It was a central goal to find a balance between the observations conducted in the tourist zone and non-tourist zone of the cities being studied.

In the direct observation sessions, I took inspiration from ‘drifting’ (the literal translation of *dérive*, a French word), a technique made famous by the Situationists in the early 1960s. Drifting involves the passage of an observer through distinct places aiming to perceive “the distances that actually separate two regions of a city, which might have little relation with the approximate distances between them that are suggested by plans” (Debord, 1958, my translation). Although I decided not to use any formal instrument to register the information that was collected during the observation sessions, I used some techniques to make sure that they would function as an effective source of data. I took hundreds of photographs using a digital camera, wrote field notes, and recorded voice memos to register my observations. Also, accurate maps of the cities were used to check itineraries and calculate approximate directions. In addition, the observations included informal conversations with various public space users to clarify what was being observed.

Observation sessions in Acapulco were carried out in May 2011. This was a complicated period of the drug war in Mexico, which hit Acapulco very seriously. Shootings between rival drug cartels and security forces were taking place daily. Regardless of the ostensive presence of federal troops, there was little to fear when circulating and talking to people on the streets, plazas, parks, and beaches situated in the tourist zone of Acapulco and its immediate surroundings. However, local informants discouraged me from conducting observations in many neighborhoods of the city, especially in precarious settlements such as La Zapata and Renacimiento. I was urged to be extremely cautious, and was convinced that because of the circumstances the standard precautions were unlikely to minimize risks. Looking for alternatives, I accompanied some civil servant teams working for the Municipal Department of Social Development during their regular activities throughout the city. This offered an interesting opportunity to focus on the interventions in Acapulco related to the implementation of the Mexican federal program concerning the rehabilitation of public spaces.

Although neighborhoods are distinct and eventual risks of misunderstandings cannot be entirely eliminated, there were no reasons for taking special precautions during the observations in San Sebastian and Florianopolis. Yet, there were other limitations. In San Sebastian, the Basque language (*Euskera*) is widely used, although it still remains mysterious to me. As a result, grasping more subtle aspects of the content of the discourses from political activists over the Basque conflict proved difficult. I conducted direct observations in San Sebastian between August and September of 2010, and also benefited from data collected earlier in June of 2008. San Sebastian is much smaller than Acapulco, making easier to walk around and observe public spaces in the distinct neighborhoods of the city. In the case of Florianopolis, the urban perimeter is discontinuous and the physical distance between the neighborhoods is significant. The territorial extension of the observations had to be limited, so I decided to focus on public spaces situated in the continental area and in the north and central regions of the insular area when conducting observations in Florianopolis during November of 2010 and July of 2011.

#### *4.2.4 Newspaper Reports*

A researcher must to a certain extent rely on the observations registered by other witnesses. Among the reasons, because one cannot directly observe all of the relevant events related to the phenomenon

being studied. Newspaper accounts of the daily news are an important source of qualitative data because they offer a chronicle of everyday life events of interest to a broad audience. These narratives are useful for understanding spatial practice as well as diverse viewpoints about examples of conflicts over public spaces. Of course, the press coverage frequently favors the interests of particular social groups, journalists are selective in many senses when making decisions about reporting events, and stories may be overly simplistic and inaccurate. Although critiques of this kind apply not only to mass media but also to the descriptions of any social observer, mass media diffusion of news tends to have a pervasive social impact. Discrepant descriptions and interpretations of relevant events may be detected if multiple newspapers are considered. Local newspapers are likely to provide more extensive and detailed coverage about daily events than national ones, although the latter are better to use to learn about events of extraordinary significance.

I selected three newspapers as data sources for each case study (see Table 2). In Acapulco, out of a handful of local newspapers of reasonable quality, two offer extensive coverage of the daily news: *El Sur de Acapulco* and *La Jornada Guerrero*. I also used *El Universal*, Mexico's most important newspaper, edited in the capital, as a complementary source. For the case study of San Sebastian, I selected three local newspapers: *El Diario Vasco*, the most traditional newspaper in the Basque Country; *Noticias de Gipuzkoa*, a newspaper launched in 2005; and *Gara*, a bilingual newspaper politically orientated towards the Basque left-wing nationalist movement. In Florianopolis, daily news coverage is monopolized by the local newspaper, *Diário Catarinense*. Its main competitor, which is far less important, is *Notícias do Dia*, which was launched in 2006. In addition, I considered data from *Folha de São Paulo*, which is a leading national newspaper edited in Brazil's biggest city, Sao Paulo.

Over the past decade, newspapers started to be published both in digital and printed versions. Indeed, all of the newspapers selected to be used as sources of data currently offer the possibility of searching relevant newspaper stories from their archives by means of computer databases or online databases. "Assuming search keywords have been carefully considered and defined, online computer databases give an accessible and very fast means of searching a large number of newspapers for relevant stories" (Soothil & Grover, 1997: 594). Now, the use of newspaper reports as sources of data is no longer an extremely time-consuming method, contrasted to the past when researchers had to search for the relevant material through the

manipulation of microfilm and hardcopies. In spite of the technological advances, the process is still time consuming and there are important drawbacks. For instance, the comprehensiveness and usability of each newspaper's online database varies considerably, one cannot be sure that all the relevant material appears on the database, and there might be differences between the stories which have been uploaded and the ones actually printed.

case	newspaper	scope	website
Acapulco	<i>El Sur de Acapulco</i>	local	www.suracapulco.com.mx
	<i>La Jornada Guerrero</i>	local	www.lajornadaguerrero.com.mx
	<i>El Universal</i>	national	www.eluniversal.com.mx
San Sebastian	<i>El Diario Vasco</i>	local	www.diariovasco.com
	<i>Noticias de Gipuzkoa</i>	local	www.noticiasdegipuzkoa.com
	<i>Gara</i>	local	www.gara.net
Florianopolis	<i>Diário Catarinense</i>	local	www.clicrbs.com.br/diariocatarinense
	<i>Notícias do Dia</i>	local	www.ndonline.com.br/florianopolis
	<i>Folha de São Paulo</i>	national	www.folha.com

**Table 2 – Newspapers selected to be used as sources of data**  
Source: elaborated by the author

As my main interest was on factual narratives about examples of conflict over public spaces, I did not include opinion columns and editorials, for example. I considered ten years of stories, counting back from September 2011. Nevertheless, often the material available on the computer and online databases did not entirely cover this period. Although some influential national newspapers such as *El Universal* and *Folha de São Paulo* offer online access to the complete historical collection, this is not always the case. In Mexico, *El Sur de Acapulco* offers free online access starting from the year 2002, while *La Jornada Guerrero* is available online only since 2007. In Spain, *El Diario Vasco* and *Gara* provide free online access to a database of editions since 2006, while the *Noticias de Gipuzkoa*'s collection is available since 2008. In Brazil, the newspapers *Diário Catarinense* and *Notícias do Dia* do not offer the possibility of searching for stories from the integral collection through online databases, but access by means of computer databases is available upon request.

#### 4.2.5 Documents

Norms cannot be empirically described in the same way as individual behaviors and events, and the collection of data about them requires different methodological tools. When it comes to the content of legal norms, documents are the most straightforward source of data, because norms of this type consist of written and formal statements. One can expect to find statements of this kind in official documents produced by institutional agencies such as legislative bodies, courts, and government departments at the local, regional, and national levels. Statutory texts and planning documents are the documental sources of immediate interest for the purposes of the present inquiry. During the fieldwork process, I also collected a wide variety of documents of subsidiary interest, such as court decisions, bylaws, governmental reports, council meeting minutes, and statistical records. Most of the relevant documents are available online and can be collected without authenticity or credibility issues using the databases of the relevant public administration agencies (see Table 3). On the few occasions when it was not possible to find a document online, I followed the alternative path of searching for it on computer and hard files.

agencies	level	websites
Presidency of Mexico	national	<a href="http://www.presidencia.gob.mx">www.presidencia.gob.mx</a>
Digital repository of legislation		<a href="http://www.ordenjuridico.gob.mx">www.ordenjuridico.gob.mx</a>
State of Guerrero	regional	<a href="http://www.guerrero.gob.mx">www.guerrero.gob.mx</a>
City of Acapulco	local	<a href="http://www.acapulco.gob.mx">www.acapulco.gob.mx</a>
Guerrero Society of Architects	regional	<a href="http://www.colegiodearquitectosdeguerrero.com.mx">www.colegiodearquitectosdeguerrero.com.m x</a>
SEMARNAT	national	<a href="http://www.semarnat.gob.mx">www.semarnat.gob.mx</a>
PROFEPA	national	<a href="http://www.profepa.gob.mx">www.profepa.gob.mx</a>
SECTUR	national	<a href="http://www.sectur.gob.mx">www.sectur.gob.mx</a>
FONATUR	national	<a href="http://www.fonatur.gob.mx">www.fonatur.gob.mx</a>
SEDESOL	national	<a href="http://www.sedesol.gob.mx">www.sedesol.gob.mx</a>
PROTUR	regional	<a href="http://www.protur.gob.mx">www.protur.gob.mx</a>
INEGI	national	<a href="http://www.inegi.gob.mx">www.inegi.gob.mx</a>

**Table 3 – Online databases selected to be used as sources of data – Acapulco**  
Source: elaborated by the author

In the case study of Acapulco, the online databases accessed to collect statutory texts and planning documents included the digital repository of legal acts managed by the Mexican federal government, as well as the websites of the government of the State of Guerrero, the City of Acapulco, and the Guerrero Society of Architects. Several documents of subsidiary interest were found online on the federal agency's databases, such as the National Environment and Natural Resources Secretary (SEMARNAT), the Federal Environment Protection Agency (PROFEPA), the National Tourism Secretary (SECTUR), the National Fund for Tourism Development (FONATUR), and the National Social Development Secretary (SEDESOL); and on regional agency's databases such as the Tourist Promotion Body of Guerrero (PROTUR). The National Institute of Statistics and Geography's (INEGI) website was the source for statistical data. Finally, because some documents could not be found online, I searched for computer files and hard files at the municipal archives in Acapulco.

agencies	level	websites
City of San Sebastian	local	<a href="http://www.donostia.org/">www.donostia.org/</a>
Provincial Council of Gipuzkoa	regional	<a href="http://www.gipuzkoa.net/">www.gipuzkoa.net/</a>
Autonomous Community of the Basque Country	regional	<a href="http://www.euskadi.net">www.euskadi.net</a>
Digital repository of legislation	national	<a href="http://www.boe.es">www.boe.es</a>
San Sebastian European Capital of Culture 2016	local	<a href="http://www.sansebastian2016.eu">www.sansebastian2016.eu</a>
San Sebastian Development Office	local	<a href="http://www.fomentosansebastian.org">www.fomentosansebastian.org</a>
Strategic Planning Office	local	<a href="http://www.donostiafuture.com">www.donostiafuture.com</a>
San Sebastian Tourism	local	<a href="http://www.sansebastianturismo.com">www.sansebastianturismo.com</a>
Gipuzkoa Tourism	regional	<a href="http://www.gipuzkoaturismo.net">www.gipuzkoaturismo.net</a>
Tourism Euskadi	regional	<a href="http://www.tourism.euskadi.net">www.tourism.euskadi.net</a>
EUSTAT	regional	<a href="http://www.eustat.es">www.eustat.es</a>
TC	national	<a href="http://www.tribunalconstitucional.es">www.tribunalconstitucional.es</a>
TS	national	<a href="http://www.poderjudicial.es">www.poderjudicial.es</a>
TSJPV	regional	<a href="http://www.poderjudicial.es">www.poderjudicial.es</a>

**Table 4 – Online databases selected to be used as sources of data – San Sebastian**  
Source: elaborated by the author



For the case study of San Sebastian, I collected statutory texts and planning documents using the City of San Sebastian's online databases; the databases of the Provincial Council of Gipuzkoa; government of the Autonomous Community of the Basque Country; and at the digital repository of legal acts managed by Spain's national government. The search for documents of subsidiary interest included material available on following local organizations' websites: San Sebastian European Capital of Culture 2016, San Sebastian Development Office, and Strategic Planning Office. To find documents related to tourism, the following websites were accessed: the local tourist office, San Sebastian Tourism; the provincial tourist office, Gipuzkoa Tourism; and the tourist office of the Basque Country, Tourism Euskadi. The Basque Institute of Statistics' (EUSTAT) website was the source for statistical information. Finally, when searching for court decisions, I used the Constitutional Court of Spain (TC), the Supreme Court of Spain (TS), and the High Court of the Basque Country's (TSJPV) online databases.

agencies	level	websites
Ciy of Florianopolis	local	<a href="http://www.pmf.sc.gov.br">www.pmf.sc.gov.br</a>
City Council of Florianopolis	local	<a href="http://www.cmf.sc.gov.br">www.cmf.sc.gov.br</a>
Santa Catarina State Government	regional	<a href="http://www.sc.gov.br">www.sc.gov.br</a>
Digital repository of legislation	national	<a href="http://www.planalto.gov.br/legislacao">www.planalto.gov.br/legislacao</a>
SANTUR	national	<a href="http://www.santur.sc.gov.br">www.santur.sc.gov.br</a>
MTUR	national	<a href="http://www.turismo.gov.br">www.turismo.gov.br</a>
MMA	national	<a href="http://www.mma.gov.br">www.mma.gov.br</a>
MINCID	national	<a href="http://www.cidades.gov.br">www.cidades.gov.br</a>
SPU	national	<a href="http://www.patrimonioidetodos.gov.br">www.patrimonioidetodos.gov.br</a>
IBGE	national	<a href="http://www.ibge.gov.br">www.ibge.gov.br</a>
TJSC	regional	<a href="http://www.tjsc.jus.br">www.tjsc.jus.br</a>
TRF4	regional	<a href="http://www.trf4.gov.br">www.trf4.gov.br</a>
STJ	national	<a href="http://www.stj.gov.br">www.stj.gov.br</a>
STF	national	<a href="http://www.stf.jus.br">www.stf.jus.br</a>

**Table 5 – Online databases selected to be used as sources of data – Florianopolis**  
**Source: elaborated by the author**

The case study of Florianópolis also included documental data from several sources. I collected statutory texts and planning documents using the following websites: the City of Florianópolis, City Council of Florianópolis, Santa Catarina State Government, and the digital repository of legal acts managed by the Brazilian federal government. I accessed the following websites to find tourist documents: the Santa Catarina's Tourist Promotion Agency (SANTUR) and the National Tourism Ministry (MTUR). Some documents of subsidiary interest were found online on the databases of other federal agencies, such as the National Environmental Ministry (MMA), the National Ministry of Cities (MINCID), and the National Secretary of Patrimony (SPU). The website of the Brazilian Institute of Geography and Statistics (IBGE) was the source for statistical data. To search for court decisions, I relied in the data available on the websites of Santa Catarina's High Court of Justice (TJSC), Federal High Court of the 4<sup>th</sup> Region (TRF4), Brazilian High Court of Justice (STJ), and the Brazilian Supreme Court (STF).

#### *4.2.6 Interviews*

Interviews with individuals who can be considered representative of key institutional actors related to the phenomena being studied are likely to be a straightforward source of data about social and ideological norms. Unlike legal norms, they are seldom explicitly articulated and almost never found in written documents. From interviews, one can expect to learn about individuals' understandings of the expectations regarding their own behavior. For the present inquiry, I conducted open-ended and semi-structured interviews. They were much more about matters concerning public space regulation than about the interviewees and their personal opinions. Nonetheless, I tried to find out something about their background, both before and during the interview, to make the dialogue easier, contextualize the interviews and make them somewhat representative. Interviews were conceived as guided conversations rather than structured queries, with the aim of granting interviewees enough flexibility to articulate their responses. I conducted the interviews on the basis of a tentative list of friendly and non-threatening questions (see Table 4).<sup>31</sup> I did not necessarily follow the exact order of the questions. Also, I neither asked all of the questions in every conversation nor refrained from asking additional ones.

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<sup>31</sup> This is a synthesis of the list of questions in English; for the original lists in Spanish and Portuguese used in each case study, see the Appendix.

<b>Personal</b>	Are you involved with this organization since when? Why did you get interested? Where do you live, in which neighborhood?
<b>Tourism</b>	Who are the tourists who visit the city and what do they look for? Which attractions does the city offer to visitors? In which areas of the city are these points of interest located? Is there competition with other destinations? What is the importance of tourism for the local economy?
<b>Public administration</b>	Do you think that the local government has more autonomy for managing the urban development nowadays, in comparison with the past? How important are democracy and participation?
<b>Image of the city</b>	In your perception, what is the image that the city wants to give from its streets, plazas, and beaches to tourists?
<b>Tourism promotion</b>	What is the city doing nowadays to attract visitors? What else should be done so that the tourists will want to come and choose it as one of their favorite destinations?
<b>Public spaces</b>	Is there a policy of regulation of the uses of public spaces in the city? What are the cornerstones of this policy? How long has this policy been in effect? Have there been changes from one administration to another? Is there considerable support or opposition from any sector towards this policy? Do other levels of government also support to this policy?
<b>Street vending</b>	Do people have the right to trade on the streets, parks, and beaches of the city? Under which conditions, and where? Do you think tourists, merchants, and residents feel comfortable about that? Are there rules concerning street vending in the city?
<b>Political activism</b>	Are there any rules regarding to use of streets and squares for demonstrations and marches? Are there places where demonstrations cannot occur? Who are the organizers of the demonstrations? Do you think that tourists, merchants, and residents feel comfortable with the use of streets for this purpose?
<b>Street maintenance</b>	Do municipal workers maintain squares and parks directly? Are there concession holders operating these services? What are the rules concerning itineraries, frequency, zones? Is there a special attention towards the tourist zone? Does the private sector offer any kind of assistance? Are there problems for operating them in any area of the city?
<b>Square redevelopment projects</b>	Are there rehabilitation projects for plazas and parks occurring now? Where? Are these projects important for improving the image of the city? Do they have the support or financial assistance from the private sector? Is there any involvement of residents, merchants in these projects? Are there any rules to be followed in their implementation?
<b>Enforcement1</b>	How do inspectors and police agents perform their functions? Is force used with those who disobey? Is there any tolerance concerning unauthorized activities? Is there more tolerance towards tourists? Are federal and state authorities involved in enforcement? Are there particular concerns with some areas of the city?
<b>Enforcement2</b>	Do you think that inspectors and police officers have support from the population? Are alternative solutions for the uses of public spaces negotiated with leaders of social organizations? Is there resistance to enforcement from some groups? Do merchants cooperate with strategies of control? Do authorized street vendors collaborate in the control of unauthorized ones?
<b>Alternatives</b>	In addition to tourism, are there other alternative economic activities in the city? What else, besides tourism, should be taken into account when the regulation of public spaces is at stake?
<b>Contrasts</b>	Is there significant difference now between the tourist zone, where the tourist attractions and services are located, and the rest of the city? How do you see the future of the city?

**Table 6 – Interviews – List of questions**

**Source: elaborated by the author**

I conducted a total of 46 interviews for the three case studies. For the case study of Acapulco, interviews were carried out in the period between 05 and 27 of May, 2011. I completed 16 interviews with an approximate average length of 53 minutes. The shortest interview took 20 minutes, while the longest one took one hour and 20 minutes. For the case study of San Sebastian, interviews were carried out in the period between 13 and 20 of September, 2011. I completed 14 interviews with an average length of 43 minutes. However, two interviews were collective, with two and three persons, respectively, interviewed at the

same time. The shortest interview was 29 minutes, while the longest one was one hour and 16 minutes. For the case study of Florianopolis, interviews were carried out during the period between 11 and 22 of July, 2011. I completed 16 interviews with an average length of 46 minutes. The shortest interview was 27 minutes, while the longest one was one hour and 15 minutes. In general, the interviewees contributed to the research with genuine interest. I have no reasons to think that they were not frank during our conversations.

I relied on information from documents, newspaper reports, and local informants to identify relevant institutional actors to be considered and individual persons to be interviewed. The core of the interviews were conversations with high-ranking public authorities at the local level, either elected or politically appointed. The authorities selected were those in office at the time of the fieldwork. Among them, there were local politicians, heads of departments and divisions of the municipal government, and civil servants working for federal or regional agencies which maintain local offices in Acapulco, San Sebastian, and Florianopolis. The list of interviewees also included a few members of the tourism industry, such as representatives of local hotel and restaurant associations, and members of social movements, such as representatives of labor unions, street vendor organizations, and neighborhood associations. For the case of Acapulco, the list includes 12 public authorities at the local level, two representatives of the tourism industry, and two representatives of social movements. In the case of San Sebastian, I interviewed 11 public authorities at the local level, two representatives of the tourism industry, and four representatives of social movements. Among the interviewees there are ten public authorities at the local level, three representatives of the tourism industry, and three representatives of social movements.

I sent a formal letter requesting to interview the selected individuals, and also a letter of presentation enclosed from the Director of the Graduate School (see the Appendix for examples of these letters). In Acapulco and San Sebastian I conducted the interviews in Spanish, while in Florianopolis they were conducted in Portuguese. I was careful about explaining in advance the purposes of the research, how the material would be used, and how I would protect sensitive information that could potentially jeopardize interviewees' personal interests (the interviewees' names are not disclosed). I did most of the interviews at the respondents' offices, but a few were conducted in places such as restaurants, cafeterias, and even in public spaces. I digitally recorded the interviews with the consent of the interviewees. Before analyzing the

material, I first converted the interviews from audio to written transcriptions (the quotations refer to the interview number and to the page of the transcription from where a given excerpt was taken). Every stage in this process, from the elaboration of the list of questions to the analysis of the transcriptions, entailed a great deal of time, effort, and persistence. But interviewing proved to be an invaluable methodological strategy for gathering qualitative data.

### ***4.3 The Methodological Design of the Present Study***

In this chapter, I presented the methodological issues involved in the design of a multiple case study analysis of public space regulation. I explained in detail the motivations behind the selection of the cities of Acapulco, San Sebastian, and Florianopolis as the cases to be studied out of an almost infinite list of contemporary tourist cities in Latin countries of Europe and America. I also described the reasons for choosing street vending, political activism, street maintenance, and square redevelopment projects as the embedded themes to be analyzed. I already mentioned that the previous delineation of a general context common to a number of empirical settings is relevant because it is a way to establish criteria to select cases of major interest for data collection and analysis. But there is an additional reason to follow such a procedure. By doing so, one also establishes the empirical settings in which the transference of the findings and conclusions of a multiple case study analysis is likely to be successful in advance. That is, the cases that have not been selected to be studied, but are likely to be explained similarly.

I also described in this chapter the case study protocol that guided the empirical work developed for the present inquiry. A protocol of this kind is essential in a multiple case study analysis, making it possible to replicate the same case study design in various individual case studies. As I have shown, the protocol includes a series of techniques and procedures for the collection and analysis of qualitative data, providing the methodological guidelines to conduct the individual case studies of Acapulco, San Sebastian, and Florianopolis. In sum, the sources of empirical data are the same for all case studies, including the contextual literature, tourist materials, observations, newspaper reports, documents, and interviews. The empirical material collected by means of this protocol was further classified according to the cases and data source categories, in order to organize a case study database (the database, in digital format, is found in the Appendix). In qualitative research, and

particularly in multiple case study analysis, it is crucial to work with a rich, consistent, and diversified database of empirical information, because it allows for the triangulation of data from different sources to maximize the strength of the most relevant findings.

The empirical data composing the case study database was analyzed, categorized, and recombined in light of the theories structuring the present inquiry. I aimed to first build a body evidence for answering the questions asked of the individual case studies. Thus, I started by studying the cases of Acapulco, San Sebastian, and Florianopolis separately. I have decided to report the findings of the case studies individually. Chapter 5 consists of the case study report on public space regulation in the city of Acapulco, Chapter 6 is used to report the case study of San Sebastian, and Chapter 7 investigates public space regulation in Florianopolis. I draw the elements for a cross-case analysis of public space regulation in tourist cities from the individual case studies. That is, I take into account the patterns of findings across the cases for answering the questions asked of the entire study. This cross-case analysis, relating my own findings about public space regulation to the work done by others, is found in Part III.



## **PART II**

### **REGULATING PUBLIC SPACES IN TOURIST CITIES:**

#### **CASE STUDIES**





## CHAPTER 5

### **Making a Living from an Image: Public Space Regulation in Acapulco, Mexico**

“Nobody knows about the State of Guerrero abroad, but surely has heard the word Acapulco, heard of the city of Acapulco,”<sup>32</sup> said a government official, while looking out over the Bay of Santa Lucia. A few sentences on a tourist brochure, illustrated with a photo of La Quebrada cliff divers, give plenty of reasons to believe that he is right: “Blessed by warm waters and sunshine 360 days a year, gorgeous beaches, scenery of unrivaled beauty, and hospitable, friendly people, Acapulco offers you a casual, relaxed atmosphere, along with some of the most impressive hotels and resorts in the world that have made it a favorite destination for sun worshippers worldwide for over half a century. From endless outdoor activities to fabulous nightlife, Acapulco has something for everyone.”<sup>33</sup> Such imagery is not that far from what comes to the mind of millions of tourists who have been there, or simply dreamed about experiencing it for a couple of days. As a pioneer resort in Latin America and the place where the tourism industry started in Mexico, Acapulco is an icon of mass tourism.

However, since President Felipe Calderón (2006-2012) declared war on organized crime, some assessments have not been so generous towards Acapulco. At the beginning of 2011, the *Los Angeles Times* reported that it “has been the scene of vicious fighting among rival drug gangs that have killed more than 650 people in four years, the fifth-highest count for any Mexican city.” Yet, the U.S. newspaper stressed that “most of the killing takes place outside the main tourist zone – a winding stretch of hotels, discotheques, taco shops and convenience stores so densely packed it is sometimes impossible to see the bay that attracted them all. There is a separate Acapulco, a dusty city of poverty, bad roads and few police that sprawls far across the hills embracing the resort city. It is there where the taxi drivers, waiters and chambermaids live. It is there that bodies are found, sometimes with hand-scrawled notes left by the killers, sometimes without heads, an unwelcome reminder of the drug wars raging across much of Mexico.”<sup>34</sup> *Lonely Planet Mexico*, an influential tourist guidebook, also warned readers

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<sup>32</sup> Interview with a local authority (11-1), my translation.

<sup>33</sup> Excerpt from a tourist guidebook (Tg3).

<sup>34</sup> Excerpts from a newspaper report, *The Los Angeles Times*, 14 Jan. 2011.

about “several grisly murders”, but assured them that “visitors who avoid the town’s inland neighborhoods have little to fear.”<sup>35</sup>

Remarkable as they are, neither the tourist brochures’ accounts about an idyllic destination nor the sensationalist stories in the news about Wild West sharpshooters are more important to understanding the everyday life of Acapulco’s inhabitants than the image of a city divided into a tourist and a non-tourist zone. In Acapulco, tourism has been structural, the brutality of drug cartels has been circumstantial, and there is an unofficial territorial division that results from and continuously shapes its urbanization process. Nonetheless, there are not ‘two Acapulcos’. As a government official put it, “Acapulco is a tourist destination inside a big city; nothing is going to change the fact that it will still exist as a city.”<sup>36</sup> This division does not mean a duality in any coherent sense; rather, it is about uneven geographical development at the urban scale. Other divisions beyond the tourist and the non-tourist zone may be identified and may be of interest, but in a city like Acapulco they tend to be blurred by, and somehow dependent on, this most basic one.

Uneven urban development is directly related to inequalities in income distribution, something that locals easily recognize. “I’ve always thought that Acapulco is too extreme. There are people in Diamond Acapulco who have impressive houses, very rich people who live on more than 5,000 or 10,000 pesos per day, and there are very poor people who live on less than 20 pesos. [...] I can say it’s a classist place, where each social class has generated its own space, its own places of recreation. They don’t go to the same clubs, they don’t even go to the same beaches, don’t attend the same events or go to the same movie theaters.”<sup>37</sup> When it comes to the hotels, clubs, taco shops, movie theaters, and convenience stores, many of the patterns of uneven development between the tourist and the non-tourist zone and the unequal conditions of access may be explained in terms of price barriers. These are private spaces, where property relations grant the owners the right to establish norms of access, including the most fundamental one: everybody can come if they pay.

But are patterns of uneven development also observable in public spaces in Acapulco? Is the tourist/non-tourist divide also noticeable when streets, plazas, parks, and beaches are at stake? If patterns of

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<sup>35</sup> Excerpts from a tourist guidebook (Tg1).

<sup>36</sup> Interview with a local authority (5-6), my translation.

<sup>37</sup> Interview with a local authority (9-10), my translation.

exclusion exist at all, how have they been produced historically and how are they reproduced daily with regards to public spaces in this tourist city? Moreover, is this a social process mediated by norms, and if this is the case, what type of norms? In the absence of rules that regulate private property, how are public spaces regulated in Acapulco? How is the access of different groups of users to public space controlled? Who benefits from the exclusion of particular social groups' actions and discourses, and who fights back and makes claims for inclusion? What strategies for the promotion of public uses have been implemented, and do they target patterns of uneven development, or simply reinforce them? In this chapter, I explore these questions by providing a contextualized and empirically grounded argument about the interconnections between tourism and different types of norms regulating public spaces in Acapulco.

This chapter is divided into five sections. In section 5.1, I put my analysis in context by presenting an overview of the stages of production of the tourist Acapulco. In section 5.2, I discuss public space regulation at the ideological layer, arguing that norms arise within the process of conceiving representations of space related to tourism. In section 5.3, I look at the legal-institutional layer, scrutinizing the content of norms governing public spaces that are found in statutory texts and planning documents. In section 5.4, I deal with the layer of concretized relationships, studying how norms have been related to concrete examples of conflict over public spaces. On the one hand, I focus on the state's repressive role in controlling the public, by analyzing the use of public spaces for street vending and political activism. On the other hand, I look at the state's promotional role in allocating public resources for the promotion of public uses, by discussing street maintenance and square redevelopment projects. Finally, in section 5.5, I articulate how the interplay of ideological, legal, and social norms has resulted in patterns of uneven development in Acapulco.

### ***5.1 The Production of the Tourist Acapulco***

The vast majority of Acapulco's inhabitants are dependent on economic activities directly or indirectly related to tourism. Also, the tax revenues of the City of Acapulco originate mainly from the tourism industry, which is complemented by transfers from the federal and regional governments. Tourism is so important that it is sometimes provocatively said that La Costera Miguel Aleman Avenue, the core of Acapulco's tourist zone, is the single provider for the entire State of

Guerrero. Since the primary and secondary sectors of the regional economy are minimally developed, revenues originating from the so-called Triangle of the Sun tourist route – that includes the much smaller tourist destinations of Ixtapa-Zihuatanejo and Taxco – are essential for Guerrero's 81 municipalities.<sup>38</sup> Although government officials concede that economic diversification is a goal, nobody truly believes that there is an alternative to the tourism monoculture in the coming decades.

The main bibliographical sources, despite providing slightly different temporal boundaries for each historical period, tend to converge by distinguishing three stages in the urbanization of Acapulco: the tourist boom, from the late 1920s to the mid-1950s; the decades of glory, from the late 1950s to the mid-1970s; and the period of crisis, stagnation, and reinvention, from the late-1970s onwards.<sup>39</sup> I follow this periodization for the most part, drawing from the contextual literature. Nevertheless, considering the proliferation of fortified enclaves, I have introduced another temporal marker into my account, which refers to the period from the late 1990s onwards. Finally, I discuss the contradictions resulting from the production of this tourist city, in order to clarify the context in which public space regulation has become a significant issue.

### *5.1.1 Traditional Acapulco*

Unlike other tourist destinations in Mexico, Acapulco began to attract visitors before anyone even thought about tourism as a strategic industry to foster national development. The first modern tourists arrived a few years after the end of the Mexican Revolution (1910-1920), due to the improvements on the old path between Acapulco and Mexico City, inaugurated as a major road in 1927.<sup>40</sup> At that time, the vast majority of Guerrero's inhabitants were peasants. Many families were members of *ejidos*, communally owned farmlands introduced after the Mexican Constitution of 1917 as a crucial component of its land reform program.<sup>41</sup> In the middle of a rural region, Acapulco was nothing

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<sup>38</sup> For a socio-economic analysis of the Triangle of the Sun, see Hernández Suárez (1997).

<sup>39</sup> Ramírez Sáiz (1986a) distinguished three periods: the takeoff from 1927 to 1954, the tourism peak between 1955 and 1971, and the times of stagnation and corrective measures from 1972 to 1985. Valenzuela Valdivieso and Coll-Hurtado (2010) distinguished four periods: the urban expansion from 1927 to 1946, the internationalization from 1946-1952, the consolidation of the destination between 1952 and 1979, and the crisis and reinvention from 1980 onwards. The factual information provided by these authors can be compared to that of Escudero (1998).

<sup>40</sup> With a length of 485 km, it was at that time considered the country's most important road and a symbol of the rise of automobile transportation (Bustamante Álvarez, 1998: 289-291).

<sup>41</sup> For an account of the land reform in Guerrero, see Bustamante Álvarez (1998: 223-282).

more than a small town,<sup>42</sup> with a glorious past as a colonial port on the Pacific coast.<sup>43</sup> The central plaza (*Zócalo*) was the reference point for the local population, the traditional public space. Urban dwellers lived in the area which is now the Historic Center of Acapulco, not far from San Diego Fort, a 17<sup>th</sup> century fortification.

The 1930s and 1940s represented the earliest tourist boom. A disordered process of urban expansion was initiated by the expropriation of *ejido* lands.<sup>44</sup> Real estate developers started to build the first modern hotels with the support of high-ranking authorities.<sup>45</sup> The developments were in Traditional Acapulco, which extends from what is now Papagayo Park to Las Playas Peninsula, where the twin beaches of Caleta and Caletilla are situated, which at that time were the city's main tourist attractions. During the Second World War, when Mexico was seen as an alternative destination to war torn Europe, Acapulco gained international prestige. Tourists began to arrive by airplane and not only the Mexican elite, but foreign tourists also started to visit the town. Visitors included Hollywood stars and renowned artists,<sup>46</sup> who bought luxury leisure villas along the beaches and turned Acapulco into a mecca for the international jet set.

Mexican leaders realized that the tourism industry in Acapulco could develop into a profitable business. President Miguel Alemán (1946-1952) foresaw a prosperous future and supported ambitious plans for tourist growth. Investments coordinated by the federal government brought modern infrastructure, with La Costera Miguel Aleman Avenue, named in honor of its biggest benefactor, as its main symbol. The 12 km of coastal avenue along the Bay of Santa Lucia proved to be the clear evidence that Acapulco was to be turned into Mexico's major tourist city. In the years that followed, ostentatious hotels and leisure villas were built around La Costera Avenue. Celebrities arrived in the new Los Amates international airport to attend film festivals held at the San

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<sup>42</sup> According to official figures, in 1930 Acapulco had less than 7,000 and Guerrero around 640,000 inhabitants, 85% living in the countryside (see Bustamante Álvarez, 1998: 216-217).

<sup>43</sup> On the colonial port, see Mombelli Pierini (1996) and Servín Massieu (1998).

<sup>44</sup> *Ejido* lands were expropriated to benefit the real estate companies during Lázaro Cárdenas's presidency (1934-1940). Interestingly enough, his administration accelerated the land reform program in Mexico as a whole (see Bustamante Álvarez, 1998: 208).

<sup>45</sup> One of the first real estate companies to invest in Acapulco was owned by General Juan Andreu Almazán, one of Guerrero's most influential politicians and a wealthy businessman. An interview with him in 1964 (see Wilkie, 1974), provides an illustration of the mix of private and public interests that characterized the tourist boom.

<sup>46</sup> In 1948 the movie *Tarzan and the Mermaids*, starring Johnny Weissmuller, was shot in Acapulco, making La Quebrada cliff divers a major tourist attraction.

Diego Fort. Moreover, Acapulco became famous as a glamorous backstage for weddings, honeymoons, television shows, movies, and even a Mexico-United States presidential meeting.<sup>47</sup> The everyday life of the traditional town came to an end.

### *.1.2 Golden Acapulco*

It was not until the post-world-war period that tourism became a mass leisure activity in the core countries of industrialized capitalism. In the 1960s and 1970s, benefiting from its geographical proximity to the United States and Canada, Mexico emerged as one of the largest markets for mass tourism. At that time, most of the tourists came from abroad, a trend favored by the Cuban Revolution (1953-1959), which closed the island that had been U.S. tourists' favorite destination for years. Accordingly, tourism started to provide a substantial portion of Mexico's foreign currency revenue. Already positioned as a major tourist destination internationally, with a secure place among Latin America's most iconic resort cities, Acapulco took enormous advantage of this favorable context.<sup>48</sup> The 1960s and 1970s were Acapulco's golden decades, the height of the 'sun, sand, and sex' formula that many other tourist destinations around the world were reproducing successfully, particularly in Southern Europe.

Not everything was glorious though. Mass tourism resulted in exponential population growth during the high season.<sup>49</sup> For local residents, it meant the best opportunity for income, but also higher living costs, the saturation of the infrastructure, and the contamination of the ocean. In those decades, the federal government began to reorganize the growth of the tourist zone. While the international jet set abandoned Traditional Acapulco, a new tourist district was designed to meet the expectations of the droves of seasonal tourists. Golden Acapulco, situated along La Costera Avenue, was chosen to receive investments from transnational hotel chains, which took over the tourist trade in the city.<sup>50</sup> Within a few years, Golden Acapulco's beachfront

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<sup>47</sup> In the late 1950s, a meeting between presidents Adolfo López Mateos and Dwight Eisenhower attracted a great deal of media attention. At the same time, the World Film Reviews put Acapulco on the world festival scene (see Zavala Alonso, 2005).

<sup>48</sup> Elvis Presley's 1963 film *Fun in Acapulco*, offers an emblematic example of the tourist image of Acapulco promoted in the United States.

<sup>49</sup> International arrivals are concentrated in the North-American winter, while national arrivals take place during the national vacations and religious holidays (see Ocampo Marín, 1994: 40).

<sup>50</sup> For an account of the role of transnational corporations, see Ramírez Mendoza (1979).

was converted into a wall of modern multi-story hotel buildings, located as near as possible to the sand. U.S.-style bars, restaurants, and nightclubs also abounded on both sides of La Costera Avenue, fostering prostitution and an incipient drug trade.

Acapulco's magnetism attracted not only tourists, but also migrants. There were employment opportunities in the tourism industry, but the number of newcomers from Guerrero's countryside by far exceeded the demand. As a result, within a few years the permanent population grew immensely.<sup>51</sup> A town of less than 30,000 inhabitants in 1950, Acapulco became the permanent home for more than 300,000 people in 1980.<sup>52</sup> This fast and disordered growth changed Acapulco's urban conditions forever. A new scale of problems arose from the tourist boom, such as sub-employment, inexistence of affordable housing, and the lack of adequate public services. Squatter settlements (called *colonias populares* in Mexico) flourished in the hills surrounding La Costera Avenue, an area known as 'the amphitheater' due to its view over the Santa Lucia Bay.<sup>53</sup> As early as 1964, an article entitled *The Two Acapulcos* appeared in the U.S. based *National Geographic* magazine,<sup>54</sup> contrasting the tourist zone with the extreme misery found nearby.

### 5.1.3 Diamond Acapulco

During Luis Echeverría's presidency (1970-1976), the federal government started to take tourist and urban planning seriously. Among the innovations, the creation of the National Tourism Secretary (SECTUR) and National Fund for Tourism Development (FONATUR) increased state intervention in the tourist market. Since then, a tourism policy has been implemented with the declared aim of attracting direct foreign investment and increasing Mexico's foreign currency earnings. In addition, there was the intention of fostering development in the country's poorest regions, such as the southern states of Quintana Roo, Chiapas, and Guerrero. This policy resulted in FONATUR's Integrally Planned Tourist Centers, that is, tourist destinations built virtually from scratch in carefully selected locations, strategically close to natural and historical sites of potential interest to visitors. This was the case of

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<sup>51</sup> On the causes and impacts of the growth, see Campodonico & Nerys Fernandez (1981).

<sup>52</sup> According to official figures (see Ramírez Sáiz, 1986a: 484)

<sup>53</sup> For an account of the growth of squatter settlements in the amphitheater of Acapulco, see Velasco Ocampo (1982: 62).

<sup>54</sup> See the original article (Cerruti, 1964).



Cancun, created in 1970; Ixtapa-Zihuatanejo, in 1972; Los Cabos, in 1977; Loreto, in 1980; and Huatulco-Oaxaca, in 1984.<sup>55</sup>

In Acapulco, it was no different. Lack of planning was taken as the source of the negative social and environmental impacts of tourism. The planning panacea, symbolized by the *Plan Acapulco* (1971-1976), targeted first and foremost the poorest, accused of contaminating the waters of the Santa Lucia Bay and destroying the natural vegetation on the hills. Rubén Figueroa Figueroa's term (1975-1981) as governor of the State of Guerrero is still remembered as the height of an era of forced evictions, but also as the period in which the largest mobilization of popular movements in the history of Acapulco took place. Dozens of neighborhood associations joined together to fight against the displacement of thousands of families who were living across the amphitheater for the creation of El Veladero National Park.<sup>56</sup> Most of them were resettled in a flat area behind the hills, creating what are now Acapulco's most populated neighborhoods, La Zapata, Ciudad Renacimiento, and La Sabana. Also, tenure regularization policies, urbanization of informal settlements, and the construction of collective housing units resulted from these struggles.

Urban and tourist planning was also crucial for the development of a third tourist district, Diamond Acapulco. It extends from Puerto Marqués Bay to the Tres Palos Lagoon, on the border of the City of San Marcos. The plans for the growth of Acapulco towards the international airport, including the construction of modern hotels and leisure villas were made during José Francisco Ruiz Massieu's term (1987-1993) as State governor. One of the most prominent Mexican politicians at that time, Ruiz Massieu was personally engaged in debates about the importance of planning efforts.<sup>57</sup> In the beginning of his time in office, a new regional agency, Guerrero's Tourist Promotion Body (PROTUR), was established for developing Diamond Acapulco. PROTUR was clearly inspired by FONATUR, and the idea was that Diamond Acapulco could reproduce, at a micro level, the main features of the Integrally Planned Tourist Centers. This aspect made of Diamond Acapulco a very different tourist district from Traditional and Golden Acapulco.

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<sup>55</sup> On FONATUR's strategic role for fostering the tourism industry, see Alcudia Garcia (1997).

<sup>56</sup> The early 1980s marked the rise of urban popular movements in Mexico. For an analysis of this phenomenon, including the case of Acapulco, see Ramírez Sáiz (1986b).

<sup>57</sup> Ruiz Massieu was also a prominent law professor, who among other works published a legal treatise on urban law (see Ruiz Massieu, 1981).

#### 5.1.4 Fortress Acapulco

Since the inauguration of a new expressway in 1993, Acapulco can be reached by car in only three and a half hours from the highly populated and wealthy Valley of Mexico. This encouraged short weekend and holiday trips, creating a new tourist modality that was much less seasonal and became increasingly more important. Diamond Acapulco has been converted into second residence units for Mexicans and sometimes foreigners. In the lots from Revolcadero beach to Tres Palos Lagoon, there used to be only a few rustic restaurants. Now one finds impressive hotels, condominiums, and shopping malls that often take the form of fortified enclaves surrounded by walls and fences, under the surveillance of guards and closed-circuit television cameras. These developments were severely affected by Hurricane Pauline, in 1997. The torrential rainfalls caused floods and mudslides that not only damaged Diamond Acapulco's infrastructure, but also devastated many squatter settlements, which accelerated political changes.<sup>58</sup>

As is the case in many other Mexican cities, gated communities are no longer a privilege of the richest inhabitants and seasonal residents. "The *condominios* might be described as ranging from the five-star ones to those of four, three, and even one-star [...], suitable to any budget,"<sup>59</sup> reported a government official. Another added that "today real estate companies make a large number of houses, affordable houses which may cost 100, 180 thousands pesos that can be paid off in 25 or 30 years. This gives people different possibilities."<sup>60</sup> The government offers credit, makes vast and inexpensive parcels of land available to real estate developers, and encourages the approval of urbanization projects. Meanwhile, middle-class families have found gated communities to be an attractive housing alternative because of the fear of violence. But quality of life is not so pleasant. Housing units are small, there is little privacy, transport is automobile dependent, and the security delivered is far from what is advertised.

Although there is now very limited land available in Acapulco, even more growth is expected in the near future. According to some projections, "Acapulco will be converted in a sort of metropolis of the coast, which integrates the neighboring municipalities of San Marcos and Coyuca de Benítez, since it has concluded the development of its

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<sup>58</sup> See the analysis of Alejandra Toscana (2003).

<sup>59</sup> Interview with a local authority (11-1), my translation.

<sup>60</sup> Interview with a local authority (5-9), my translation.

own coast with Diamond Acapulco.”<sup>61</sup> Plans for a new tourist district in San Marcos are at an advanced stage. Across the region there are infrastructure projects in progress, including the construction of new roads, tunnels, and water, energy, and sewage treatment facilities. One of the projects that have spurred great controversy due to its social and environmental consequences is La Parota hydroelectric power station, 30 km from Acapulco, on the Papagayo River. Peasant and indigenous communities at risk of displacement are mobilizing against the project, which is seen by government officials as strategic for supplying the metropolis of the future with cheaper energy and potable water.

### 5.1.5 Urban Space Produced

A tale of traditions, gold, diamonds, and fortresses makes up the official accounts of the production of space in Acapulco. Nevertheless, beyond metaphors there is “a history of displacement of the traditional people by hotel and condominium developments, [...] and now we have struggles for an increasingly limited space,”<sup>62</sup> as an interviewee put it. The resulting city presents visible contradictions that often go unnoticed by short-term visitors, although they are aware of the fact that the city is much more than its tourist zone. When asked, government officials talk about it openly, arguing that “contradictions are as strong as in any big city.”<sup>63</sup> Table 7 lists the most frequently mentioned contradictions apart from the tourist/non-tourist divide. Government officials tend to naturalize this process and refrain from providing an alternative explanation for these contradictions to that given in the mid-1970s: lack of planning.

In the words of a government official, “there are neighborhoods which are very rich, where costly investments were made. There are houses that cost 20, 30 million dollars [...]. This provides irrefutable evidence that Acapulco’s tourist growth has generated great wealth too. If you go to Diamond Acapulco, please observe the *condominios*, there are *condominios* worth more than 100 million dollars! Wealth was generated, but also a great deal of poverty. These are the contradictions of a destination that grew without any planning. And this is the problem, lack of planning.” Asked about FONATUR’s Integrally Planned Tourist Centers, the same interviewee answered that “in Ixtapa-Zihuatanejo you

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<sup>61</sup> Interview with a local authority (5-9), my translation.

<sup>62</sup> Interview with a local authority (12-5), my translation.

<sup>63</sup> Interview with a local authority (1-11), my translation.

won't see these irregular settlements like you see in Acapulco, you won't see street vending, all of this is under control; the tourist zone is clearly separated from the urban zone. In Acapulco it's not like that, since it lacked tourist and urban planning you don't know where the tourist zone and the urban zone begin, they are intertwined, that is, the urban zone has already 'eaten' the tourist one. In the Integrally Planned Tourist Centers this is very well defined.”<sup>64</sup>

the urban-rural divide	“There are people from the rural Acapulco who have never been to the beach, they never come here, and there are people from La Costera who have never been to the rural zone. Even though, we are only one municipality” (2-4); “then we have the countryside of Acapulco, that is, the rural communities. Some are two hours away from Acapulco, because of the lack of roads” (5-9), my translation.
division of residential areas by class	“Las Brisas, Brisamar, Caleta... This would be a first-class Acapulco. After that comes a second one, which comprises the middle-class neighborhoods, [...] like Colonia Progreso, Costa Azul... These were once prestigious neighborhoods, but now they have been converted into middle-class areas. And then we have all of those who settled in the amphitheater” (5-8), my translation.
the three tourist districts	“We have a zone that started with Acapulco's successful tourist boom, which is Traditional Acapulco, situated near Caleta beach; we have a zone that was built in the 1970s, 1980s, which is Golden Acapulco, and the one that is now taking-off, Diamond Acapulco” (10-4), my translation.

**Table 7 – Most frequently mentioned contradictions – Acapulco**  
**Source: elaborated by the author, based on interviews with local authorities**

In recent years, there have been increasing concerns regarding the consumption potential of tourists who arrive in Acapulco. As a local authority put it, “We are going to create, in fact they already exist, ‘many Acapulcos’. There will be zones for the poorest tourists, for middle-class visitors, and for the richest ones, but within these areas tourists will be increasingly poorer in respect to their own category, [...] because those who have better financial conditions will go somewhere else.”<sup>65</sup> For many observers, Acapulco cannot cope with a context of fierce competition between tourist destinations, unless it changes its current model of development. Otherwise, even what is taken for granted could be lost.<sup>66</sup> The kind of urban problems which planning efforts are expected to address arose as part of the history of the tourist Acapulco. However, lack of planning became a significant issue when it started to be seen as a competitive disadvantage in relation to the Integrally Planned Tourist Centers that flourished in Mexico.

<sup>64</sup> Interview with a local authority (10-10), my translation.

<sup>65</sup> Interview with a local authority (12-4), my translation.

<sup>66</sup> For instance, in 2011 SECTUR decided to make Mexico's most important tourist trade fair, a 36 year-old event which had up to this point been held annually in Acapulco, itinerant.

## 5.2 *The Ideological Layer*

Geographical location determined the existence of natural and historical sites of interest in Acapulco, such as the Santa Lucia Bay and the San Diego Fort. In addition, it granted relative advantages in terms of connectivity to tourist markets such as the United States, Canada, and the Valley of Mexico. From Los Amates international airport to the expressway connecting it to Mexico City, governmental investment in transport infrastructure maximized these advantages. Once the flow of tourists started, the fast conversion of Acapulco into a major tourist destination required expropriating the *ejido* lands and constructing urban infrastructure, La Costera Avenue being the best example. State intervention set the grounds for the exploitation of tourism through hotels, gated communities, restaurants, nightclubs, and shopping malls. Acapulco needed a workforce as much as capital investment. The settlement of a large number of migrants brought new issues to the urban agenda. But it is a mistake to think that Acapulco was made only from physical interventions changing the environment.

Tourist promotion has been essential. Films, television shows, glamorous events, and tourist materials of all kind made Acapulco a famous tourist destination. Tourist promotion means marketing an image of the city. This is because there is a need to produce anticipation of the experience among potential visitors. Once tourists arrive, there is the desire for confirmation of the expectations towards the promised experience. But making the city conform to the marketed image is a very different kind of challenge. In this section, through semiotic analysis of tourist materials and interviews, I focus on aspects of anticipation. The motivations and expectations of tourists who come to Acapulco are described. There is also a discussion about the places selected as tourist attractions, the tourist zone of Acapulco, and the image of the city that has been marketed. The analysis turns then to the question about how public spaces within the tourist zone are supposed to look. Finally, I explore the interrelations between representations of space and ideological norms.

### 5.2.1 *Tourists' Motivations and Expectations*

The overwhelming majority of the tourists who arrive in Acapulco every year are Mexicans. A few groups of foreigners still

come, mainly from the United States and Canada, and in lower numbers those from European, Latin American, and Asian countries.<sup>67</sup> Among foreigners, motivation for travelling is quite diverse. For instance, there is a group of elderly Canadians who visits Acapulco every winter, to escape the cold season in their home country. In recent years, a significant number of young U.S. spring-breakers have been attracted by tourist packages including cheap flights, hotel accommodation, beach activities, and nightlife. Another relevant group from abroad is composed by passengers of cruise ships that stop at the local harbor for anywhere from two days to a couple of hours. Such an account suggests major changes in respect to previous periods. Until the 1980s, there was a boom of international affluence in Acapulco, which counted for more than 80% of the arrivals. But now the tourism pyramid is inverted. Though quantities remain high, international tourism no longer provides the largest percentage of arrivals.<sup>68</sup>

Competition with other destinations, especially Integrally Planned Tourist Centers such as Cancun and Los Cabos, explains much of the changing patterns in the tourist flow. Competitive disadvantages are compensated with a strong focus on the national market. Nationals who have their first residence in Mexico City represent the largest group of tourists, by far. During the weekends, there is intense traffic on the expressway connecting Acapulco to the Valley of Mexico. Tourists from regions such as Mexico State, Queretaro, Guanajuato, Morelos, and Zacatecas also join the crowds on holidays and during the vacation season. Some own leisure houses and apartments in gated communities. Many units are available for short-term rent, so even those who do not own a second residence find it to be a less expensive alternative.<sup>69</sup>

Tourists are still mostly interested in the favorable climate and natural beauty Acapulco offers. The sunny days and high temperatures allow for outdoor activities almost throughout the entire year, and remain a key competitive advantage. In addition, visitors from different classes and origins expect to find bars, restaurants, shops, and nightclubs spread across La Costera Avenue. Among the factors that provide for a

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<sup>67</sup> It is estimated that 7,000,000 tourists from Mexico visited Acapulco in 2008, a figure representing more than 95% of the total (see the 2009-2012 *Municipal Program of Tourism*).

<sup>68</sup> In Acapulco, the slang word *chilango* is often used to refer to a person from Mexico City, most of the time with a pejorative connotation. A taxi driver illustrated the inversion of the tourism pyramid with a story about a sign at the main entrance of a well-known nightclub. The original sign in English, 'Only for exclusive guests', was suddenly replaced in the early 1990s by an equally ironic sign in Spanish, '*Bienvenidos chilangos*'.

<sup>69</sup> In Acapulco it is common to hear jokes about 'supermarket tourists', who prepare their own food 'at home' and neither use hotel nor restaurant services anymore.

faithful, frequent, and diversified public of visitors, local authorities highlight the hospitality of the people, the kindness of the tourism industry's workers, and the variety and quality of the tourist services. They also add that the city offers an authentically Mexican cultural experience, which is a competitive advantage in comparison to the Integrally Planned Tourist Centers where "one arrives and doesn't know if one is the United States or another part of the world."<sup>70</sup>

### *5.2.2 The Tourist Zone and its Attractions*

Acapulco's tourist attractions are listed in Table 8, which includes places that are described in tourist guidebooks, brochures, and websites as sites of interest.<sup>71</sup> The tourist attractions found in each one of the city's main tourist districts are catalogued, as well as those situated outside. In addition, tourist attractions are classified into three categories according to the main reason why they are sites of interest, that is, whether they have a natural, historical, or artificial origin. Figure 4, which provides a satellite image of the urban perimeter of Acapulco, marks the geographical location of these tourist attractions. Such a procedure makes possible to determine the approximate location of the tourist zone in relation to the rest of the city, even if there are not clear boundaries between the tourist zone and the non-tourist zone.

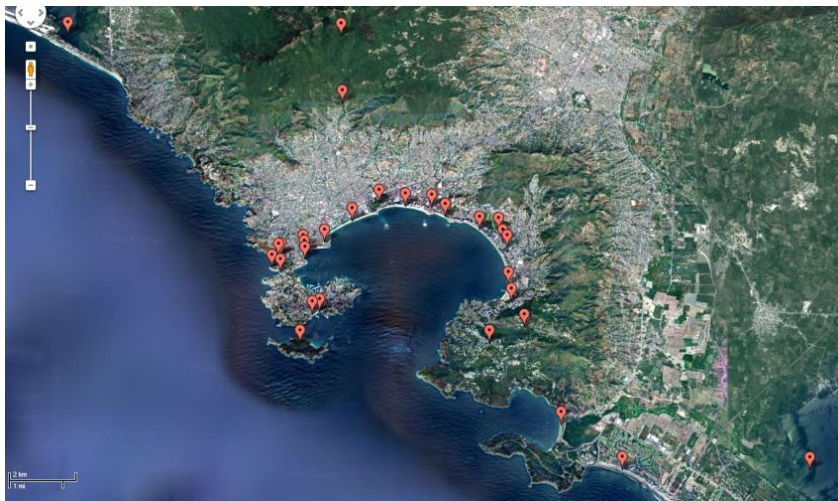
A variety of tourist attractions can be found, most of them situated in Traditional, Golden, and Diamond Acapulco. Although developed during different stages of the production of the city, they are part of the same tourist bubble. Visitors focus primary on the natural attractions, which are mainly the views over Santa Lucia Bay, its beaches, and the iconic elements of the landscape, like La Quebrada cliffs and La Roqueta Island. Artificial attractions are sites of secondary interest; even though, tourists actually spend most of their time there. This is the case of La Costera Avenue, where shopping and nightlife activities take place. The lagoons and other beaches may also interest some visitors, depending on the length of their stay in the city. Lastly, there are a few historical attractions in Acapulco, which are of interest to a small group of tourists. As a government official pointed out, "tourism promotion is to a great extent concentrated in the beaches [...]. Let's say

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<sup>70</sup> Interview with a local authority (6-2), my translation.

<sup>71</sup> The table does not mention the Papagayo River, actually a rural attraction, and the Masks House, which was closed recently. Sometimes the ruins of the Fortín Álvarez are described by locals as a historical attraction, but tourist materials completely ignore it.

of a hundred tourists that come to Acapulco, 98% go to the beaches and 2% to the San Diego Fort.”<sup>72</sup>



**Figure 4 - Tourist attractions – Acapulco**  
Source: image adapted from Google Maps, 2012

Compared to the entire extension of the urban perimeter, these three tourist districts are a very limited tourist bubble. Most natural and historical attractions are situated on the coastline; artificial attractions tend to be concentrated around La Costera, Scenic Highway, and Las Naciones avenues. The exceptions are El Veladero National Park and Palma Sola archeological site, both seldom mentioned in tourist materials because access is still precarious. Tourists do not expect to find any sites of interest in most neighborhoods. As local authorities put it, “tourists don’t get to know more than a little part, which is the one we want to show them.”<sup>73</sup> “Tourists don’t walk around looking at lampposts and walls... It’s like in any other city they usually stay in the tourist zone.”<sup>74</sup>

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<sup>72</sup> Interview with a local authority (12-1), my translation.

<sup>73</sup> Interview with a local authority (8-6), my translation.

<sup>74</sup> Interview with a local authority (9-3), my translation.

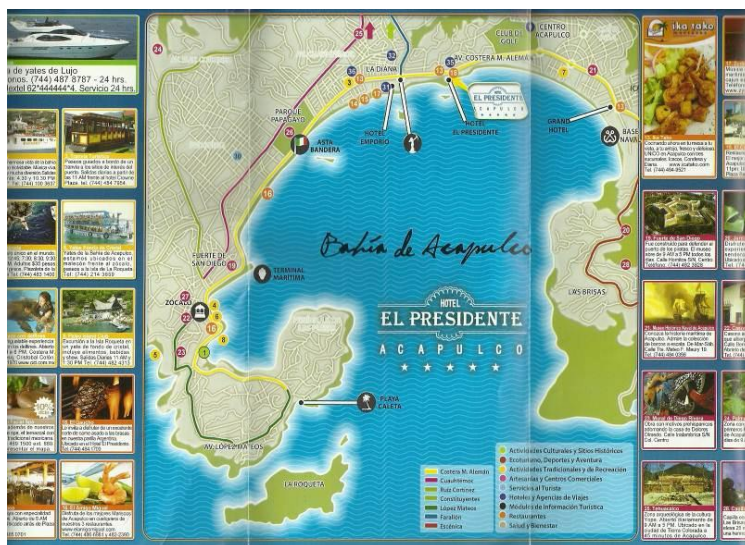


Districts	Attractions	Nat.	Hist.	Art.	Tg1	Tg2	Tg3	Tw1	Tw2
Traditional Acapulco <i>Acapulco Tradicional</i>	La Roqueta Island and Virgin of the Seas <i>Isla de La Roqueta y La Virgen de los Mares</i>	•			•	•	•	•	•
	Caleta and Caletilla beaches <i>Playas Caleta y Caletilla</i>	•			•	•	•	•	•
	Magic Sea World Aquarium <i>Mágico Mundo Marino</i>			•	•	•	•	•	
	Angosta, Manzanillo, and Tlacopanocha beaches <i>Playas Angosta, Manzanillo y Tlacopanocha</i>	•			•	•		•	•
	La Quebrada cliff divers <i>Los clavadistas de La Quebrada</i>			•	•	•	•	•	•
	La Quebrada cliffs and Sinfonía del Mar square <i>La Quebrada y Plaza Sinfonía del Mar</i>	•			•	•		•	
	Dolores Olmedo's House (Diego Rivera's murals) <i>Casa de Dolores Olmedo (murales Diego Rivera)</i>		•			•		•	
	Harbor <i>Malecón</i>			•			•	•	
	The central plaza and the cathedral <i>Zócalo y Catedral Nuestra Señora de la Soledad</i>		•		•	•	•	•	•
	San Diego Fort (Historical museum) <i>Fuerte de San Diego (Museo Histórico)</i>		•		•	•	•	•	
	Tamarindo, Hornos, and Papagayo beaches <i>Playas Tamarindo, Hornos y Papayo</i>	•			•	•	•	•	•
	Papagayo Park <i>Parque Papagayo</i>			•	•	•	•	•	
Golden Acapulco <i>Acapulco Dorado</i>	La Costera Miguel Aleman Avenue <i>Avenida La Costera Miguel Alemán</i>			•	•	•		•	•
	Icacos, Condesa, and Hornitos beaches <i>Playas Icacos, Condesa y Hornitos</i>	•			•	•	•	•	•
	CICI Water Park <i>CICI Parque Acuático</i>			•	•	•	•	•	•
	Acapulco's International Convention Center <i>Centro Internacional Acapulco</i>			•		•	•	•	
	Acapulco's Cultural Center <i>Centro Cultural de Acapulco</i>			•		•	•	•	
	Acapulco's Historical Naval Museum <i>Museo Histórico Naval de Acapulco</i>			•		•			
Diamond Acapulco <i>Acapulco Diamante</i>	The Scenic Highway <i>La Carretera Escénica</i>			•	•	•		•	
	Bay of Puerto Marques beaches <i>Playas de la Bahía de Puerto Marqués</i>	•			•	•	•	•	•
	Acapulco's Botanical Gardens <i>Jardín Botánico de Acapulco</i>			•	•	•	•		
	Chapel of Peace <i>La Capilla de la Paz</i>			•	•	•	•	•	
	Revolcadero and Diamante beaches <i>Playas Revolcadero y Diamante</i>	•			•	•	•	•	•
other attractions	Pie de la Cuesta beach and Coyuca Lagoon <i>Playa Pie de la Cuesta and Laguna de Coyuca</i>	•			•	•	•	•	•
	Tres Palos Lagoon and Barra Vieja <i>Laguna de Tres Palos y Barra Vieja</i>	•			•	•	•	•	•
	El Veladero National Park <i>Parque Nacional El Veladero</i>	•				•		•	
	Palma Sola Petroglyphs <i>Petrograbados de Palma Sola</i>		•			•	•	•	

**Table 8 – Tourist districts and attractions – Acapulco**  
**Source: elaborated by the author, based on tourist guidebooks and websites**

### 5.2.3 The Image of the City

By analyzing the tourist maps of Acapulco, it is possible to verify that their focus coincides with the tourist zone. The viewers' eyes are drawn to the center of the images. At least a half of the images' length represents the waters of Santa Lucia Bay. Blue colors distinguish the sea, the lagoons, and the sky from the dry land. In Figures 5 and 6, parks and hills of interest to tourists are in shades of green, while the rest of the city is white; other colors are used to draw lines indicating the avenues leading to tourist attractions. The tourist attractions and the establishments sponsoring the maps are indicated by colored circles, with numbers, small pictograms (flags, palm trees, boats), and labels. Only Figure 5 represents the shadow of the network of streets surrounding these elements. Figure 7 differs only slightly from the others, since it depicts a three-dimensional image. In this map, different shades of yellow are used to represent the beaches and green to depict the hills surrounding the bay, but the city is represented only by drawings of the main points of interest, which are all located between the hills and the sea. Most neighborhoods are entirely ignored; that is, there are no signs of their actual existence in the images.



**Figure 5 - Tourist map of Acapulco (Tm1)**  
**Source:** printed material, author's collection

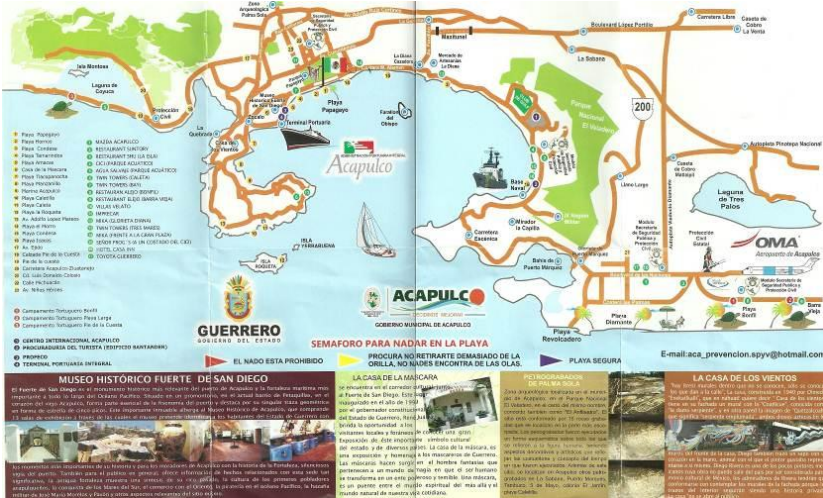


Figure 6 – Tourist map of Acapulco (Tm2)  
Source: printed material, author's collection



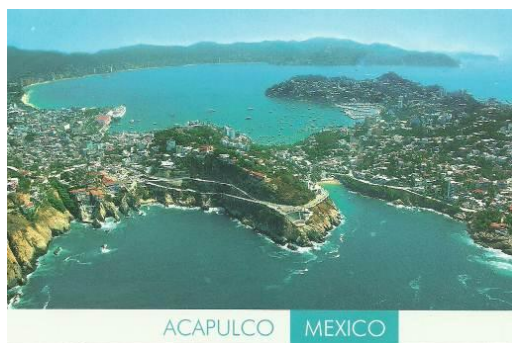
Figure 7 – Tourist map of Acapulco (Tm3)  
Source: printed material, author's collection

Tourist maps circulate massively in Acapulco, which means that other audiences are exposed to these images. Therefore, it not only matters how these images are structured, but also how they create expectations about residents and government officials' behavior. In

particular, the image of Acapulco represented on tourist maps influences the ways through which local authorities represent the city geographically, that is, the ways they understand their own world. These images inform government officials' actions because they raise expectations about the social importance of the different zones of the city. For instance, when local authorities are asked whether or not there is a special interest in the tourist zone in comparison to the rest of the city, the most common answer is the following: "We know that we have to present an image, an image of Acapulco."<sup>75</sup> The image that they have in mind is that of the tourist bubble, the zone of Acapulco being sold for tourist consumption.

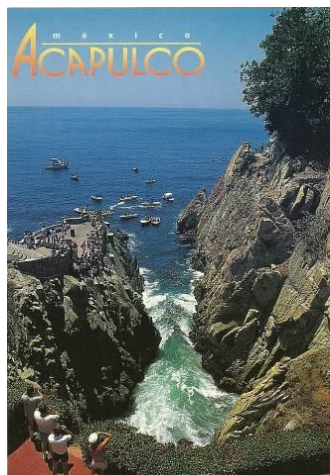
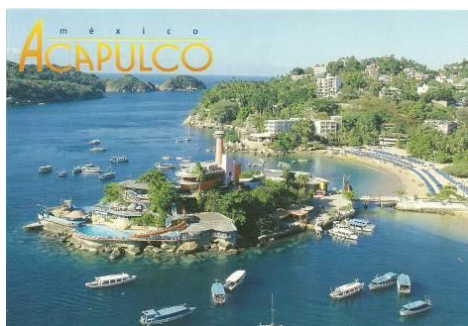
#### *5.2.4 The Image of Public Spaces*

The places depicted on tourist postcards of Acapulco also coincide with those situated in the tourist zone. There is nothing surprising about this finding, since postcards' images are about landscapes marked as tourist attractions. In what follows, I turn again to semiotics to analyze the composition of images in a collection of postcards. My main interest is to understand how public spaces are represented. The tourist district of Traditional Acapulco is portrayed in Figures 8, 9, and 10; Gold Acapulco is represented in Figures 11, 12 and 13; while Diamond Acapulco is shown in Figure 14.

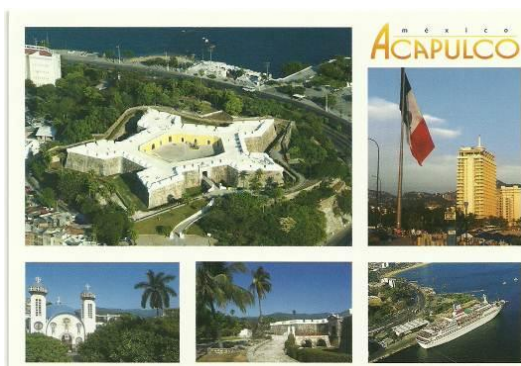


**Figure 8 – Postcard of Traditional Acapulco (Tp10)**  
Source: printed material, author's collection

<sup>75</sup> Interview with a local authority (4-1), my translation.

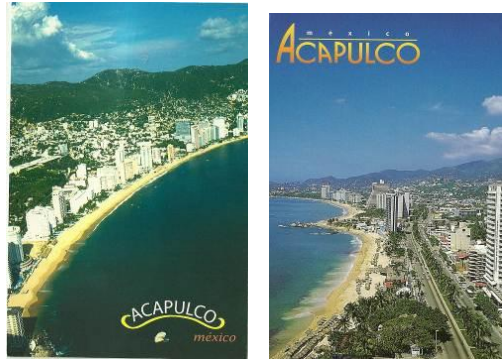


**Figure 9 – Postcards of Traditional Acapulco (Tp5 and Tp9)**  
Source: printed material, author's collection

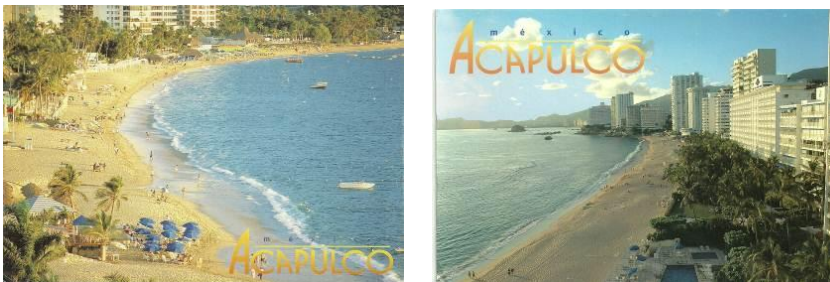


**Figure 10 – Postcard of Traditional Acapulco (Tp7)**  
Source: printed material, author's collection

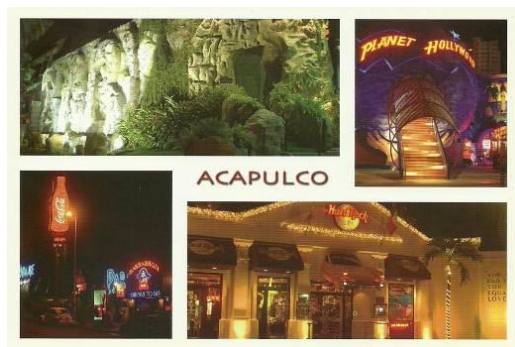




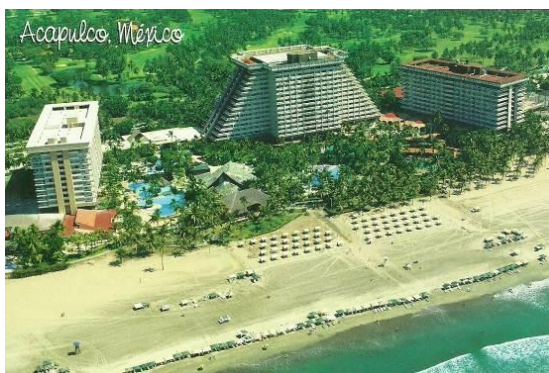
**Figure 11 – Postcards of Golden Acapulco (Tp1 and Tp2)**  
**Source: printed material, author's collection**



**Figure 12 – Postcards of Golden Acapulco (Tp3 and Tp4)**  
**Source: printed material, author's collection**



**Figure 13 – Postcard of Golden Acapulco (Tp6)**  
**Source: printed material, author's collection**



**Figure 14 – Postcard of Diamond Acapulco (Tp8)**  
**Source: printed material, author's collection**

Table 9 explores the compositional signs of these images. The relationships among three elements are analyzed: the signifieds, that is, the abstract experiences that are symbolized; the signifiers, which are the building blocks of the images; and the referents, the actual objects the signs are related to. For instance, the signifier ‘blue sky’, which appears in most of the postcards’ images, is related to the signified ‘sunshine 360 days a year’, and its referent are the ‘climatic conditions’ found in Acapulco; the signifier ‘gardens in a large avenue’, which appears in Figure 11, is related to the signified ‘well-maintained, modern streets’, and its referent is La Costera Avenue.

<b>Signifieds: abstract experiences</b>	<b>Signifiers: image's blocks</b>	<b>Referents: actual objects</b>
sunshine 360 days a year	sunny, blue sky	climatic conditions
contact with the nature, views	deep green mountains and parks	hills and parks
clean and warm water	shades of blue and green in the sea	ocean
casual, relaxing atmosphere	palm trees, beach umbrellas	beaches
endless outdoor activities	banana boats, water skis, golf courses	tourist services
the history of the city as a port	different kinds of boats	the naval museum, the harbor
impressive beachfront hotels	high buildings close to the sea	hotel services
well-maintained, modern streets	gardens in a large avenue	La Costera Avenue
fabulous, US-style nightlife	Planet Hollywood neon lighting	clubs and discos
authentic Mexican experiences	Mexican flag, church	the cathedral, flagstaff monument

**Table 9 – Postcard semiotic analysis, present signs**  
**Source: elaborated by the author, based on tourist postcards**

This table focuses on the viewers’ preferred readings of the signs that are actually seen in the images, which means that an analysis of the

absent signs is missing. One can certainly think about a number of signifiers whose signifieds would not be considered desirable experiences by most tourists. Table 10 illustrates this point. It is not difficult to understand why postcard makers would prefer to exclude signs related to signifieds such as ‘bad weather’, ‘poverty’, ‘difficulties to relax’, ‘dull plazas’, and ‘violence’ from their representations of public spaces.

Signifieds: abstract experiences	Signifiers: image's blocks	Referents: actual objects
bad weather	gray clouds	climatic conditions
poverty	dwellings made from scrap materials	squatter settlements
contaminated water	dark colored waters	the water of the bays and lagoons
disordered and dirty beaches	floating litter	beaches
difficulties to relax	boy selling things close to the sea	street vending
dull plazas	benches covered in graffiti	non-tourist plazas
violence	gunmen, truckloads of troops	drug cartel warfare
social unrest	people carrying banners on a street	political activism
homelessness	a person sleeping on a sidewalk	a homeless person

**Table 10 – Postcard semiotic analysis, absent signs**  
**Source: elaborated by the author, based on tourist postcards**

Local authorities have the image of tourist postcards and maps in mind when they talk about how public spaces are supposed to look. As an interviewee declared, “we make our living from our image, so it’s an image that we have to project to everyone who visits us.”<sup>76</sup> Influenced by tourist representations of space, government officials consider public spaces situated in the tourist zone to be those that really matter from an economic point of view, and share a set of conceptions about which spatial meanings should be encouraged and discouraged in order to make them more valuable. Under the current circumstances, where newspapers and television channels spread images of headless bodies and truckloads of military troops in the streets, security has become the buzzword of the image that the city wants to convey of its public spaces. But other words have been playing a prominent role, such as cleanliness, order, harmony, recreation, and beauty.

### *5.2.5 Ideological Norms and the Tourism Industry*

The social groups who most benefit from the marketed image of Acapulco are those controlling the tourism industry: the owners of

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<sup>76</sup> Interview with a local authority (1-2), my translation.



hotels, restaurants, shops, nightclubs, and real estate companies. The biggest tourist establishments take part in the Association of Hotels and Tourist Enterprises of Acapulco (AHETA), which has a small office, permanent staff, and manages the city's official tourism website. La Costera Business Association (ACEC) gathers mid-sized establishments, and United Restaurateurs of Acapulco (RUA), small restaurant and bar owners; in spite of being poorly institutionalized, both have charismatic leaders who often gain public attention. The business associations play an active role as interest groups, urging authorities to make decisions in one way or another, but most of the time regarding minor issues.

The existence of various business associations shows that the tourism industry is an organized sector, but not necessarily homogeneous. For instance, in Diamond Acapulco, hotels are part of transnational chains and many offer packages combining meals, accommodation, transport, and entertainment; in Golden Acapulco, most hotels are now controlled by Mexican chains; and in Traditional Acapulco, there are family businesses. The tourism industry is comprised of a larger number of actors than those who develop economic activities at the local level exclusively: airline companies, travel agencies, souvenir shop retailers, and transnational hotel and restaurant chains, to mention a few. They operate at the local, regional, national, and transnational scales, making profits from a variety of services, at the same time cooperating and competing. If it is true that all these factions of the tourism industry have interests in common, there are also inner tensions and many times their interests do not converge.<sup>77</sup>

The mechanisms through which the tourism industry influences local authorities' actions are much more indirect than one could expect. Because representations of space are performed upon the entire society, the imagery reproduced by tourist postcards and maps is part of the expectations that surround social actors' actions. This creates a constitutive relationship between visual representations of space and norms of a particular type, the ideological norms. That is, ideological norms arise within the process of conceiving tourist representations of space that benefit hegemonic groups in society. In Table 11, the key ideological norms of tourist Acapulco are tentatively listed. Evidence gained from interviews with local authorities supports the claim of their empirical existence. Governing a tourist city that relies on its image and

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<sup>77</sup> For instance, business associations reacted in coordination against SECTUR's decision to make the tourism trade fair itinerant. However, the impact of this decision is different for family businesses than for transnational hotel chains.

has to cope with fierce competition, local authorities take these ideological norms into account in everyday decisions and actions. They believe that the city will be sanctioned by not only attracting less visitors but also tourists of lower consumption potential if they simply refuse to follow these ideological norms.

<b>The city shall seek to continuously produce new tourist attractions and services</b>	<p>“The tourist wants to feel good, and asks ‘what else can you offer me as a tourist attraction? Nothing more than your beaches? What else can I do?’ And this is our function, isn’t it?” (11-1); “we know that we have to diversify our attractions, we have to improve in many things, and we are doing it indeed. [...] What we have to do is to attract more investors, who will start new projects, that is, bring new investments, build more hotels, create bigger tourist attractions, which will keep Acapulco within tourists’ options” (10-3), my translation.</p>
<b>The city model shall be subordinated to its function as a tourist destination</b>	<p>“We cannot convert Acapulco in an arena of competition between political parties because of differences of interpretation... It is not because potable water was not provided to me that I will make all a movement and start to paralyze the city. [...] This is what we must sell to the world, the idea that this is a calm and harmonious city, where one can walk without any problems... How can we succeed in making it when our politicians are promoting demonstrations in the streets? This is irresponsibility from those who do this. We have to establish the big agreements, the big dialogues... In which all of us should have a common fundamental purpose that is Acapulco. We have to contrast party, group, and personal interests against the interest of maintaining Acapulco. I ask myself what would happen if Acapulco lost all this attractiveness, which it has at the international and national levels. How are we going to survive? Where will we earn our families’ livelihood?” (8-5), my translation.</p>
<b>The city shall be constructed through a public-private partnership, in which social actors cooperate toward the same goals</b>	<p>“There are businessmen who work with different departments... Not particularly with our department, but with the department of green areas, department of urban image, department of tourism, who surely are interested that their tourist areas look pleasant, because they make a living from this. There is also coordination between those in charge of the tourism office and those who provide tourist services, aiming to provide a good image... Hotel and restaurant managers, all of those who work with tourist services, those who rent sport boats, water skis, parachutes... All of these people have to be in coordination with the government somehow” (1-9), my translation.</p>
<b>Financial and non-financial resources shall be addressed with priority to the places situated in the tourist zone</b>	<p>“The provision of services in the tourist zone must be under good control and balance, because we depend on it. If necessary, we can leave a neighborhood without water for a while, but we cannot leave the tourist zone without water. We can leave a neighborhood without waste collection for a while, but we have to keep the tourist zone clean all the time, because economically not only does Acapulco depend on it, but the entire state does” (7-2). “I will just give you an example, the drinking water system in Acapulco. There is a system that provides water for the entire city, 80% of the city; and there is another system that only provides water to the tourist zone, which is 20%. [...] There is a special concern about it, without a doubt” (6-3), my translation.</p>
<b>The actions and discourses most profitable to the tourism industry shall be encouraged in the tourist zone and the less profitable ones discouraged</b>	<p>“We have fixed the street lighting in La Costera; we are repairing sidewalks, taking care of gardening, beach accesses, public plazas... Because we understand that as a tourist destination we have to modernize ourselves, be updated to make Acapulco be seen as an international level tourist destination” (6-3). “Acapulco should be safe for the tourists who visit us, who should be able to walk around La Costera, La Quebrada, as they have always done, without finding litter” (7-6). “Street vending in La Costera and in the beaches is a sensitive issue, the government says it gives bad image... I personally think that they give a bad image” (9-6), my translation.</p>

**Table 11 – Key ideological norms of tourist Acapulco**  
**Source: elaborated by the author, based on interviews with local authorities**

### 5.3 *The Legal-institutional Layer*

Making tourist Acapulco has also been an intangible, symbolic enterprise. One can go as far as to suggest that at a certain point in the course of its history the promotion of a specific image became more important than building the city physically, since the former started to precede the latter. Arguably, the combination between tourist and urban planning played a major role in this change. Representations of space related to tourism started to make sense *vis-à-vis* representations of space conceived by urban planners. The well-marked tourist bubble on tourist maps and the immaculate images from postcards are now expected to be inscribed in the actual landscape. Nevertheless, making the spatial practice conform to the marketed image of the city is another challenge. Although ideological norms arise within the process of conceiving representations of space, alone they are too weak for the job of regulating public spaces.

Public space policies have to be conceived and implemented by the state at the local level. They tend to be framed by ideological norms, but are constituted by legal norms. Based on empirical evidence from documents and interviews, in this section I analyze public space regulation at the legal-institutional layer. Focusing on the role of the state at the local level, I start by considering the particular policy-making context within which public space policies are designed. I show that there is great diversity in the body of legal norms, which are found in a wide variety of planning documents and statutory texts at the local, regional, and national levels. I also examine the existence of jurisdictions and the distribution of political power among the agencies of the public administration in terms of enforcing and implementing norms. Finally, I show how representations of space and spatial practice interact with legal norms.

#### 5.3.1 *The Policy-making Context*

For seven decades, starting from the post-revolutionary epoch, the Institutional Revolutionary Party (PRI) ruled Mexico, monopolizing political power at the national, regional, and local levels, controlling the state, the electoral system, and key social organizations. After a period of decay in the 1990s, it was finally defeated with the election of Vicente Fox (2000-2006) as the first president from a rival political party, the National Action Party (PAN). In Acapulco, the PRI was in power until 1999, when it was defeated by the Party of the Democratic

Revolution (PRD), which also won the municipal elections in 2002 and 2005. The PRD has been the main opposition party to the PRI in Guerrero, where PAN remains remarkably weak. Political plurality is now a reality at the local, regional, and national levels of government (see Table 12). For instance, in 2011 the main political parties had at least one elected representative on the city council (*Cabildo*), PRI had returned to the municipal government, PAN was in charge of the federal government, and PRD commanded the regional government.

Election Year	Governmental Level	Election Winner	Development Plan
1990	municipal	R. Juárez Cisneros (PRI)	1990-1993 Municipal Development Plan
1993	municipal	R. de la O Almazán (PRI)	1993-1996 Municipal Development Plan
1993	regional	R. Figueroa Alcocer (PRI)	1993-1999 State Development Plan
1994	federal	E. Zedillo (PRI)	1995-2000 National Development Plan
1996	municipal	J. Salgado Tenorio (PRI)	1996-1999 Municipal Development Plan
1999	municipal	Z. Torreblanca (PRD)	1999-2002 Municipal Development Plan
1999	regional	R. Juárez Cisneros (PRI)	1999-2005 State Development Plan
2000	federal	V. Fox (PAN)	2001-2006 National Development Plan
2002	municipal	A. López Rosas (PRD)	2002-2005 Municipal Development Plan
2005	municipal	J. F. Salgado Macedonio (PRD)	2005-2008 Municipal Development Plan
2006	federal	F. Calderón (PAN)	2007-2012 National Development Plan
2005	municipal	Z. Torreblanca (PRD)	2005-2011 State Development Plan
2008	municipal	M. Añorve (PRI)	2009-2012 Municipal Development Plan
2011	regional	A. Aguirre (PRD)	2011-2015 State Development Plan

**Table 12 – Election winners and development plans, 1990-2011 – Acapulco**

**Source:** elaborated by the author, based on documents

In the 1980s, constitutional reforms and new legislation came into force granting more powers to the municipalities. City governments still depend on the federal government and to a lesser extent on the regional government to access the financial resources required for implementing larger programs and projects. Nonetheless, they have much more autonomy to formulate policies than a few decades ago. The policy-making process is now expected to be based on negotiations between political parties and different levels of government, also taking into account debates of the electoral campaigns and the contribution of social

organizations. Many governmental tasks require coordination between different levels of government. For instance, the implementation of various social programs designed at higher governmental levels is handled at the local level. Another example concerns the management of the Federal Maritime Terrestrial Zone, where the federal, regional, and city governments share responsibilities.

At the beginning of their mandates, the president, governors, and mayors are required to elaborate development plans and submit them for legislative approval (see Table 12). Sectorial plans with similar characteristics are also released. Although the relevance of documents of this kind has increased, their impact is still limited.<sup>78</sup> On the one hand, aspects such as lack of transparency and mechanisms of popular participation undermine citizens' ability to hold government officials accountable. On the other hand, difficulties in carrying out long-term planning may be credited to the political instability and lack of coordination that are associated with local short terms. Mayors serve terms of only three years, while the president and governors serve six-year terms and reelection is not allowed. Government officials in key positions of the administration never know how long they will be in charge of policy-making tasks. As an interviewee pointed out, "in the first year, you learn; in the second, you put in practice and in the last, you are already worried about the next election. It's such a short period to allow municipalities to make long-term plans."<sup>79</sup>

### 5.3.2 Governing the City

The development plans released at different governmental levels consist of indicative lists of strategic goals that are expected to orient public policies during the term. Although legal norms can be identified in planning documents of this kind, they are non-binding norms meant to guide government officials' actions. Nonetheless, their importance cannot be minimized, especially because they define policy-making targets. For instance, among the goals of the 2007-2012 *National Development Plan*, is the aim of "promoting public security in the marginalized zones of cities." According to the document, "delinquency has taken over parks, vacant lots, and streets. In order to rescue and

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<sup>78</sup> For instance, in 2003 FONATUR released a 600-page document, the *Sectorial Plan for the Tourist Development of Acapulco Metropolitan Area*, in which the 2009-2012 *Municipal Program of Tourism* is not even mentioned.

<sup>79</sup> Interview with a local authority (9-1), my translation.

clean these places, the federal government shall promote the construction and redevelopment of parks, playing fields, and playgrounds, restoring a healthy and safe coexistence between neighbors. Towards this aim it shall act in operational and financial coordination with regional and municipal authorities. It shall encourage the participation of the neighbors in the surveillance, policing, cleaning, and maintenance of public spaces.”<sup>80</sup> This conception is behind the Public Spaces Redevelopment Program, an initiative of Calderon’s presidency that has greatly impacted Acapulco.

Compared to the *2007-2012 National Development Plan*, the content of the *2009-2012 Municipal Development Plan* is less systematic, and thus less likely to inform a consistent set of public policies. Yet, some aspects stand out. For instance, the definition of a long-term vision for the city, “consolidate Acapulco as a prosperous and competitive city in the national and international markets, converting it into a pleasant and safe place, with diversified and qualified services.”<sup>81</sup> In spite of being concerned about defining the strategic model of city that government officials should keep in mind, the plan is confusing when it comes to determining how this will be achieved. It presents an extensive list of strategic goals and programs of action described through political slogans rather than clear descriptions. For example, the goal of promoting a “clean and ordered city, with an urban image,” is among other actions related to the program called “zero tolerance for a better Acapulco”, described as consisting of making sidewalks and green areas free from street vendors.<sup>82</sup> Moreover, it is claimed that development plans released at the higher levels were considered, but relevant federal programs, such as the Public Spaces Redevelopment Program, are not mentioned in the document.

One of the few issues addressed by the *Municipal Development Plan* in a more convincingly manner is the need to reinforce Acapulco’s land-use planning legislation (see Table 13). It is handled mostly at the local level, but is influenced by metanorms found in statutes that were passed at higher governmental levels. The revision of the *City’s Master Plan*, which is a key planning tool, is described as a priority. Also, the need for the city council to pass the *Territorial and Ecological Order Plan* is mentioned. Both provide binding norms targeting land-use interventions and sanctioning non-compliant actions. They are crucial

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<sup>80</sup> Axis 3, Objective 3, Strategy 3.1, *2006-2012 National Development Plan*, my translation.

<sup>81</sup> Section 4.2, *2009-2012 Municipal Development Plan*, my translation.

<sup>82</sup> Section 8.3.7, *2009-2012 Municipal Development Plan*, my translation.

tools to control the urbanization process. The *City's Master Plan* functions as a normative framework that at the same time restricts private landowners' powers and limits government officials' discretionary decisions. However, the norms of the *City's Master Plan* are flexible and valid only in the short run, because partial content changes are frequently approved by the City Council or simply authorized through urban impact assessments.<sup>83</sup>

Year	Governmental level	Land-use planning legislation
1978 [metanorms]	regional	Guerrero's Land Divisions Act <i>Reglamento sobre el Fraccionamiento de Terrenos</i>
1980 [abrogated]	regional	City's Master Plan <i>Plan Director Urbano</i>
1987 [abrogated]	municipal	City's Master Plan <i>Plan Director Urbano</i>
1988 [abrogated]	regional	Guerrero's Building Act <i>Reglamento de Construcciones de Guerrero</i>
1988 [metanorms]	federal	Environmental Protection Act <i>Ley de Equilibrio Ecológico y la Protección al Ambiente</i>
1989	municipal	Acapulco's Land Divisions Act <i>Reglamento sobre el Fraccionamiento de Terrenos</i>
1991 [metanorms]	regional	Guerrero's Environmental Protection Act <i>Ley de Equilibrio Ecológico y la Protección al Ambiente</i>
1993 [metanorms]	federal	Human Settlements Act <i>Ley General de Asentamientos Humanos</i>
1993 [abrogated]	municipal	City's Master Plan <i>Plan Director Urbano</i>
1994 [metanorms]	regional	Guerrero's Building Act <i>Reglamento de Construcciones</i>
1995	municipal	Environmental Impact Assessment Act <i>Reglamento de Evaluación de Impacto Ambiental</i>
1998 [revised in 2001]	municipal	City's Master Plan <i>Plan Director Urbano</i>
2000	municipal	Acapulco's Building Act <i>Reglamento de Construcciones</i>
2000	municipal	Acapulco's Environmental Protection Act <i>Reglamento de Ecología y Protección al Ambiente</i>
2001 [metanorms]	regional	Guerrero's Urban Development Act <i>Ley de Desarrollo Urbano de Guerrero</i>
2002	regional	Guerrero's Condominium Property Act <i>Ley de Propiedad en Condominio</i>
[forthcoming]	municipal	Territorial and Ecological Order Plan <i>Plan de Ordenamiento Ecológico Territorial</i>

**Table 13 – Selected land-use planning legislation, 1978-2010 – Acapulco**  
Source: elaborated by the author, based on documents

<sup>83</sup> The *Territorial and Ecological Order Plan* is seen by government officials as a remedy against the constant changes, since requirements for amendments are more stringent, including the need of formal approval of modifications by the regional and federal legislative bodies.

### 5.3.3 Public Space Management and Zoning Districts

Land-use planning legislation is an important source of legal norms regulating public spaces. On the one hand, it defines criteria regarding to the extension of land that must be made available for public use whenever land divisions take place. On the other hand, land-use planning legislation ultimately relies on a mechanism known as administrative zoning. The *City's Master Plan* contains a set of visual zoning maps dividing the city into a number of administrative districts with precise boundaries (see Figure 15). Accordingly, the content of land-use planning norms in Acapulco varies spatially in respect to aspects such as permitted activities (agricultural, residential, tourist, commercial); standards for building structures (minimum lot size, yards, setbacks, height, density); and the relationship between privately owned land and common use property (alignment, streets and sidewalks width). In short, administrative zoning makes it possible to apply different norms in each zoning district.

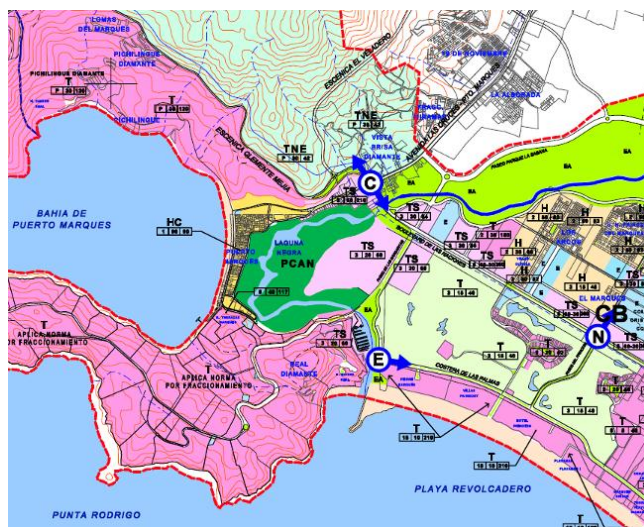


Figure 15 – Excerpt from the Partial Zoning Map of Diamond Acapulco  
Source: adapted from the *City Master's Plan*, 1998 (map version from 2006)

Varied statutory texts passed by the municipal, regional, and federal legislative bodies; or even enacted by the executive branch, consist of another source of legal norms regulating public spaces (see Table 14). Statutes of this kind include norms of conduct that are usually



binding, directly enforceable, and more likely to be valid in the long run. Both the physical materiality of the environment and the appropriation of material sites by living bodies are governed. For example, the targets of the norms managing public spaces that are established in *Guerrero's Criminal Code* and *Street Vending Ordinance*, respectively, are political activists and street vendors. Even without making explicit use of visual zoning maps, statutes of this kind rely on mechanisms for representing space that are quite similar to administrative zoning. That is, they also divide the city into zoning districts with more or less well-defined boundaries and make the content of legal norms vary spatially across the urban perimeter.

Level	Year	Statutory Text
Federal	1991	Federal Maritime Terrestrial Zone Decree <i>Reglamento de Zona Federal Marítimo Terrestre</i>
	2004	National Property Act <i>Ley General de Bienes Nacionales</i>
Regional	1986	Guerrero's Criminal Code <i>Código Penal del Estado de Guerrero</i>
	1993	Papagayo Park Decree <i>Decreto de Creación del Parque Papagayo</i>
municipal	1985	Streets Ordinance <i>Reglamento de Vía Pública</i>
	1990	Street Vending Ordinance <i>Reglamento para Ejercicio del Comercio Ambulante</i>
	1991	Waste Management Ordinance <i>Reglamento del Servicio de Colecta de Residuos Sólidos</i>
	1992	Historic Neighborhoods Ordinance <i>Reglamento para la Conservación de Barrios Históricos</i>
	1995	Green Areas Ordinance <i>Reglamento de Áreas Verdes</i>
	1995	Pollution Prevention Ordinance <i>Reglamento para la Prevención de la Contaminación</i>
	2000	Outdoor Advertising Ordinance <i>Reglamento de Anuncios</i>
	2002	Public Markets Ordinance <i>Reglamento de Venta de los Mercados Públicos</i>
	2002	Establishment Licensing Ordinance <i>Reglamento de Licencias de Funcionamiento</i>
	2002	Policing and Governance Ordinance <i>Bando de Policía y Gobierno</i>
	2003	Street and Public Space Naming Ordinance <i>Reglamento Nomenclatura de Vías y Espacios Públicos</i>

**Table 14 – Selected statutory texts on public spaces, 1985-2010 – Acapulco**  
Source: elaborated by the author, based on documents

The *Policing and Governance Ordinance*, one of the most significant statutory texts passed by the city council, offers a clear illustration. It states that “street vending is strictly prohibited in the tourist zone, which is understood for this purpose as: Las Naciones

Boulevard, the Scenic Highway, La Costera Avenue, the main square, the streets of the Historic Center, and the tourist areas known as Barra Vieja, Diamond Acapulco, Revolcadero, Bay of Puerto Marques, Bay of Santa Lucia, La Quebrada, Caleta, and Caletilla. Offenders will be severely sanctioned, and repeated violations entail a 36-hour arrest and seizure of merchandise.”<sup>84</sup> In a further article, there is another mention of the same zoning district: “with the purpose of protecting tourism and the tourist areas, demonstrations and rallies and are not permitted in the tourist zone, except if municipal authorities consider that their development does not affect the public order and the tourist image. Offenders will be severely sanctioned, and repeated violations entail a three-hour arrest and seizure of leaflets.”<sup>85</sup> In addition, the *Policing and Governance Ordinance* states that the municipal government “shall take care of street lighting maintenance with priority on the parks, gardens, and streets of highest tourist flow, seeking a rational management of resources by the department in charge of all streets of the city.”<sup>86</sup>

### 5.3.4 Public Administration Agencies and their Jurisdictions

Tasks regarding public space management are distributed among diverse agencies of the public administration at the federal, regional, and municipal levels. There is some degree of overlap in terms of norm-setting powers, but this is seldom the case in the distribution of responsibilities regarding enforcement and implementation. Table 15 lists the most relevant agencies involved in public space management in Acapulco. It also describes whether they are related to the federal, regional, or municipal level of government, their declared tasks concerning public spaces, and their geographical jurisdiction. In only a few cases, the agencies’ jurisdiction coincides with the entire urban perimeter. Among the relevant jurisdictions, more limited geographical areas can be distinguished such as the Papagayo Park, Diamond Acapulco, and the Federal Maritime Terrestrial Zone.

Papagayo Park, the city’s most important urban park, is a jurisdictional area in its own right. The State of Guerrero has owned the land since 1979, when nearly 22 hectares belonging to a hotel were expropriated for the creation of an amusement park. In the early 1990s, after an unsuccessful attempt to transfer part of the land to private

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<sup>84</sup> Arts. 111 and 203, *Policing and Governance Ordinance*, my translation.

<sup>85</sup> Art. 204, *Policing and Governance Ordinance*, my translation.

<sup>86</sup> Art. 103, *Policing and Governance Ordinance*, my translation.

developers, the regional government created an agency to manage the park. The Papagayo Park Authority establishes norms that apply only to the interior area of the park, which has its entire perimeter fenced. Diamond Acapulco also has a few unique characteristics. When the regional government decided to create this tourist district, an agreement stipulated that PROTUR rather than municipal government agencies would assume maintenance tasks. The municipal government was expected to take this responsibility as soon as the infrastructure was completed, but due to the devastation caused by the Hurricane Pauline, it was decided that PROTUR would continue to take care of Diamond Acapulco.

Level	Agency	Declared Tasks	Jurisdiction
federal	SEMARNAT	authorize uses of the Federal Maritime Terrestrial Zone	Federal Maritime Terrestrial Zone
	PROFEPA	control uses of the Federal Maritime Terrestrial Zone	Federal Maritime Terrestrial Zone
regional	Public Security Department <i>Secretaría de Seguridad Pública</i>	enforce the rules of Guerrero's Criminal Code	the city
	PROTUR	cleaning, sweeping, maintenance and waste collection	Diamond Acapulco, except the Federal Maritime Terrestrial Zone
	PASP	cleaning, sweeping, maintenance and waste collection	Federal Maritime Terrestrial Zone
	Papagayo Park Authority <i>Parque Papagayo EPBS</i>	cleaning, sweeping, maintenance, pruning, etc.	only Papagayo Park
municipal	Governance Department <i>Dirección de Gobierno</i>	mediation of political conflicts	the city
	Urban Development Department <i>Secretaría de Desarrollo Urbano</i>	plan and control land-use	the city
	Social Development Department <i>Secretaría de Desarrollo Social</i>	design and implement social programs	the city
	Streets Department <i>Dirección de Vía Pública</i>	authorize, prevent, and control street vending	the city, except the Federal Maritime Terrestrial Zone
	Ecology Protection Department <i>Dirección de Ecología</i>	prevent and control contamination and trash disposal	the city, except the Federal Maritime Terrestrial Zone
	Public Works Department <i>Dirección de Obras Públicas</i>	construction and renovation of sidewalks, plazas and parks	except Diamond Acapulco and the Federal Maritime Terrestrial Zone
	Sanitation Department <i>Dirección de Saneamiento Básico</i>	cleaning, sweeping, and waste collection	except Diamond Acapulco and the Federal Maritime Terrestrial Zone
	Green Areas Department <i>Dirección de Áreas Verdes</i>	cultivation, pruning, irrigation, and maintenance of green areas	except Diamond Acapulco and the Federal Maritime Terrestrial Zone
	Urban Image Department <i>Dirección de Imagen Urbana</i>	painting, cleaning, renovation of street furniture, etc.	except Diamond Acapulco and the Federal Maritime Terrestrial Zone
	Street Lighting Department <i>Dirección de Alumbrado Público</i>	maintenance and renovation of street lighting	except Diamond Acapulco and the Federal Maritime Terrestrial Zone
	Maintenance Department <i>Dirección de Conservación</i>	cleaning and renovation of storm drains, painting of curbs, etc.	except Diamond Acapulco and the Federal Maritime Terrestrial Zone

**Table 15 – Public administration agencies and their jurisdictions – Acapulco**  
**Source: elaborated by the author, based on documents**

The Federal Maritime Terrestrial Zone is a much older jurisdictional area whose existence is an important peculiarity of coastal management in Mexico. According to the *National Property Act*, it is defined as the 20 meter-wide strip of passable firm land parallel to the coastline (see Figure 16).<sup>87</sup> The Federal Maritime Terrestrial Zone belongs to the nation's patrimony and it is under the jurisdiction of the federal government. Consequently, the federal rather than the municipal and regional government is responsible for the management of beaches. In Acapulco, the most important management tasks are shared by the Federal Environment Protection Agency (PROFEPA) and the National Environment and Natural Resources Secretary (SEMARNAT). In the late 1990s, based on agreements among the three levels of government, the Agency for the Promotion and Administration of Beach Services (PASP) was created by the State of Guerrero with the purpose of providing for maintenance services on the beaches, while the municipal government assumed the obligation of doing the same in respect to paved areas located in the Federal Maritime Terrestrial Zone.

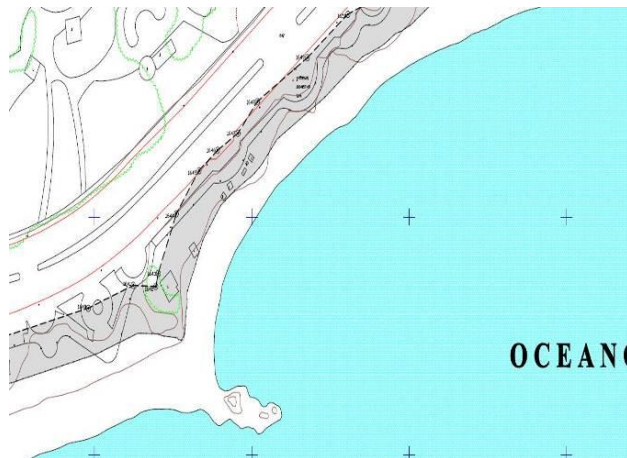


Figure 26 – Excerpt from the Federal Maritime Terrestrial Zone's map  
Source: SEMARNAT, 2011

### 5.3.5 Legal Norms and the State

Legal norms are crucial for defining particular social groups' actions and discourses that should be targeted by the agencies of the

<sup>87</sup> Art. 119, I, *National Property Act*.

public administration, as well as for establishing coercive means that can be used against them to obtain compliance. For example, sanctions ranging from seizure of merchandise to the arrest of offenders are means to compel street vendors to respect zoning districts. But legal norms at different levels are not necessarily coherent and may in fact conflict. Statutory texts must always be interpreted by government officials at different levels and the meanings of a particular piece of legislation may substantially change over time, even if the text remains untouched. By enacting statutory texts regulating public spaces, government officials are often seeking a means of balancing individual interests against collective interests. For instance, the declared reasons for delineating zoning districts for street vending and political activism, are associated with the goal of balancing the right to work and the right to protest, granted in Mexico's Constitution,<sup>88</sup> with the needs of keeping both an ordered tourist image of Acapulco and the traffic flowing on its streets.

Legal norms managing public spaces are not always the same throughout the entire urban perimeter. They consist of tools for zoning public spaces and establishing jurisdictional areas, at the same time reflecting and shaping representations of space. Such spatial variability of norms within the interior space of the same city is not necessarily new, since over the past decades Mexican cities have incorporated mechanisms of administrative zoning into their master plans. However, such a mechanism typically makes norms vary across the city for the sake of regulating private spaces. Thus, it is a striking finding to verify that administrative zoning is not only related to the *City's Master Plan* but also to a number of other statutes which are in force for the sake of regulating public spaces. They create differences in terms of regulation not only between distinct kinds of public spaces, such as streets and beaches, but also between public spaces of the very same kind, two different plazas for instance. Whether or not a given place is situated in the tourist zone is the main criteria for uneven regulation at the legal-institutional layer.

#### ***5.4 The Concretized Relationships Layer***

Legal norms, as much as ideological norms, have been central to the production of the tourist Acapulco. But the strength of these norms depends on their ability to influence government officials' behavior. Making the spatial practice conform to the content of norms found on

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<sup>88</sup> Arts. 5, 6, and 9, *Constitution of Mexico*.

planning documents and statutory texts requires actions aimed at implementing public space policies. There is a degree of discrepancy between the content of legal norms and what actually happens in everyday life. For this reason, the analysis of public space regulation at the layer of the concretized relationships demands the understanding of conflicts over public spaces. In this section, based on observations, newspaper reports, and interviews, I start by looking at conflicts involving street vending and political activism, which are related to the state's repressive role. I then turn to conflicts over street maintenance and square redevelopment projects, which are related to the state's promotional role. Such a distinction may be regarded as arbitrary. Yet, there are substantial differences between what is at stake when the state seeks to control the public of users and when the focus is on the promotion of public uses. In both circumstances the roles played by social norms cannot be neglected.

#### *5.4.1 Street Vending*

The tourist boom not only meant economic growth, but spread the image of a charming big city offering plenty of work opportunities and the promise of a better life. However, the alternatives of formal employment offered by the tourism industry are far from meeting the needs of the workforce. Thousands of men and women who decided to come from Guerrero's countryside to Acapulco did not have the skills necessary for the modern jobs available in the tourist zone. Most succeeded in finding work as maids, waiters, taxi drivers, and shopkeepers, which are low-paid and temporary jobs. But many workers started to make a livelihood from the informal economy, which includes a wide range of activities, such as street vending. This is often considered "the last option that somebody from Guerrero has for making a living before migrating to the United States or engaging in criminal activities."<sup>89</sup>

Local residents engage in street vending, and so do seasonal migrants who come from the mountains of Guerrero and Valley of Mexico to sell handicrafts, foodstuffs, and all sorts of cheap goods and services. Every day thousands of street vendors are working in Acapulco; they are seen almost everywhere, both in the tourist and non-tourist zone (see Figure 17). Local authorities tend to think that street

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<sup>89</sup> Interview with a local authority (12-1), my translation

vending is a “serious social problem,” and a “very complex one” to deal with. They also believe that this is an “old problem,” which increasingly affects “Mexico and cities of the entire world.” They claim that there is an urgent need to solve this problem, following the example of cities that have already done so.<sup>90</sup> They concede that the best solution is generating employment opportunities, but claim that street vending must be controlled, ordered, and regularized. “When an individual does not find a job, he or she looks for income alternatives, and street vending is one of such alternatives. So this is what we do, we regularize it; we put some order into it, because we cannot eliminate it.”<sup>91</sup> Under the current circumstances, local authorities would not really support any sort of zero tolerance policy concerning street vending, because they are afraid of the explosive social consequences.



**Figure 17 – Street vendors in the tourist zone of Acapulco**  
**Source: photographed by the author, 2011**

Controlling street vending has been considered an important goal for several reasons. According to government officials, street vendors’ stalls obstruct sidewalks, affecting pedestrian and motorized circulation, and thus the freedom of movement. Also, they complain that street

<sup>90</sup> See interviews with local authorities (2-5, 7-9, 8-3, 10-6, and 11-6).

<sup>91</sup> Interview with a local authority (1-3), my translation.

vending increases the demand for maintenance services, but does not generate revenues for the city. In addition, they argue that street vending represents unfair competition *vis-à-vis* formal commercial establishments, since similar goods are sold at lower prices on the streets due to the absence of costs related to the payment of taxes, labor rights, and rent. Overall, they believe that street vending makes tourists feel uncomfortable, and thus damages the tourist image of Acapulco. Some reactions to questions about this topic are as follows: “tourists get bothered, because for anyone who comes with the idea of taking a rest it’s very tiring to say ‘no, thanks!’, ‘no, thanks!’ all the time, [...] to hear ‘hey my friend, look at me, why don’t you buy this?’”<sup>92</sup> “Tourists do not want to be bored by vendors, you come to the beach and one arrives, then another one, and sometimes within one hour you have to talk to ten vendors.”<sup>93</sup> “It’s at stake the insecurity problem too, there are pickpockets among vendors looking around, checking out what they can steal from tourists.”<sup>94</sup>

If there has been an agreement about the need of a public policy for controlling street vending, how to implement it has been a matter of controversy over the years. Since the 1980s, the main approach to this issue has been the regularization of street vendors’ activities through the construction of public markets (*mercados de artesanías*). First, small markets were built in order to relocate street vendors, but they soon grew. Now there are an impressive number of markets of this kind. Even so, street vendors soon started to occupy the corridors between the stalls, as well as the sidewalks surrounding the markets. Those who benefited from stalls inside the markets brought relatives to take their places in the streets. In fact, anyone who enters into these markets immediately notices that many of the stalls are closed to customers and only used to store goods. That is, regularized vendors realized that they could earn much more money when working outdoors. As a result, there are few doubts that public markets have actually increased, instead of reduced street vending.

The set of proposals to control street vending from the 1980s also included the creation of a permit system, which remains unchanged. According to the *Streets Ordinance* and the *Street Vending Ordinance*, the use of plazas, parks, streets, and sidewalks for commercial activities is prohibited throughout the city, except in the cases where it is carried

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<sup>92</sup> Interview with a local authority (9-7), my translation.

<sup>93</sup> Interview with a local authority (10-7), my translation.

<sup>94</sup> Interview with a local authority (7-10), my translation.



on by authorized street vendors, according to the conditions stipulated on temporary permits. The Streets Department was appointed the agency at the municipal level that could issue street vending permits on an individual basis, which may be valid for a period of one year, a couple of months, or even a single day. The permit conditions include the payment of a fee, as well as strict restrictions in terms of place, time, quality of the goods to be sold, and the personal circumstances of the beneficiary. Inspectors working for the Streets Department are responsible for enforcing the permit system, sanctioning street vendors who do not have a permit or who are not complying with the established conditions.

Controlling street vendors on the beaches of Acapulco, however, is outside the jurisdiction of the Streets Department. According to the *National Property Act*, explicit authorization from SEMARNAT is required for any commercial use of the Federal Maritime Terrestrial Zone, while PROFEPA is responsible for sanctioning non-authorized uses. The *Federal Maritime Terrestrial Zone Decree* refers to the possibility of creating a permit system for street vending on the beaches, but in order to do so SEMARNAT must follow technical criteria stipulated by SECTUR.<sup>95</sup> Permit systems for street vending on the beaches are enforced in other Mexican tourist destinations, such as Los Cabos. Nevertheless, this is not the case of Acapulco, because SECTUR never provided the technical criteria for issuing permits. According to a government official, whenever this issue is discussed, someone claims that no permit system should be implemented at all, because if it ever happens that a single permit is issued, soon authorities would have to deal with thousands of permits.<sup>96</sup> Thus, SEMARNAT does not issue permits for street vendors in Acapulco. As a result, PROFEPA considers all those who engage in this activity on the beaches as violating the legislation, and thus potentially subject to enforcement actions.

The existence of two agencies of the public administration with jurisdiction over contiguous areas entails a coordination problem of considerable relevance. A government official explained such a curious situation by reporting a hypothetical dialogue between municipal and federal inspectors: “On the beach, on the edge of sand where street vending usually takes place, federal authorities have jurisdiction. But they don’t intervene... ‘The problem of the street vendors is yours; you shouldn’t allow them to be there!’ – says the municipal inspector to the

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<sup>95</sup> Art. 11, *Federal Maritime Terrestrial Zone Decree*.

<sup>96</sup> See interview with a local authority (12-3).

federal one. ‘But how am I going to prevent them to enter? I can cover one kilometer of beach, but not 20 kilometers, help me!’ – replies the federal authority”.<sup>97</sup> Another interviewee complemented the dialogue: “Municipal inspectors say ‘because this is federal zone, it is not under our jurisdiction’. But when federal inspectors catch street vendors, they tell them: ‘You know what? Move on, this is a public area’; and after they go and tell municipal inspectors: ‘Look! Now it’s under your jurisdiction!’ But then municipal inspectors tell street vendors: ‘no, go back there!’ We play this game, it shouldn’t be like this, but it is.”<sup>98</sup>

In addition, sanctioning street vending is far from simple, due to the procedures that must be followed. As a local authority commented, “I found this vendor today on a certain beach, but tomorrow he is not going to be there anymore. How am I going to notify him? [...] If his legal residence is not there, I cannot apply the procedure properly. Sometimes it’s already very complicated the task of sanctioning someone who is permanently established, so try to figure out how difficult it is when we’re talking about a street vendor, it’s much more complicated.”<sup>99</sup> In addition, there is a lack of human resources for controlling the thousands of street vendors. The Streets Department has about 30 to 40 inspectors for the entire city,<sup>100</sup> while only four PROFEPA inspectors are in charge of controlling the diverse uses of the Federal Maritime Terrestrial Zone across Guerrero’s coastline.<sup>101</sup> Strict enforcement of statutes would require “a person from PROFEPA at each beach entrance,”<sup>102</sup> “at least one municipal inspector on each street, an army,”<sup>103</sup> and both agencies acting in perfect coordination.

Without the means available for enforcing legal norms throughout their entire jurisdictions, and with different approaches to street vending permit systems, the agencies follow distinct strategies. PROFEPA only sporadically carries out enforcement operations in its jurisdiction, focusing mainly on the main beaches of tourist interest, such as Caleta and Caletilla. PROFEPA relies to a large extent on the action of Federal Maritime Terrestrial Zone concession holders, such as hotel and restaurant establishments. They make use of tactics of spatial

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<sup>97</sup> Interview with a local authority (7-10), my translation

<sup>98</sup> Interview with a local authority (11-7), my translation

<sup>99</sup> Interview with a local authority (11-7), my translation

<sup>100</sup> See interview with a local authority (1-9).

<sup>101</sup> See interview with a local authority (11-7).

<sup>102</sup> Interview with a local authority (11-5), my translation

<sup>103</sup> Interview with a local authority (1-9), my translation

control, such as roped-off beach areas, closed-circuit television cameras, and their own security guards to prevent unauthorized vendors from accessing the areas under concession. The Streets Department prioritizes some areas of the city to the detriment of others, and is constantly encouraged to do so by off-street merchants.<sup>104</sup> In the words of a civil servant, “La Costera, the tourist zones, these are the main areas covered by us, it’s impossible to cover the entire municipality.”<sup>105</sup> This is confirmed by a number of local authorities, quoted in Table 16. It is regarded as legitimate for thousands of street vendors to use the public spaces to work, except those public spaces located in the tourist zone.

<p>“We don’t prohibit street workers to make a living, as long as they don’t do it in the tourist zone. They should go to the neighborhoods and avenues where they don’t obstruct the traffic of vehicles that much. Basically we tell them ‘not here, but there’. Such option is given to them, it not like that we tell them ‘don’t do it, simply because you shouldn’t do it’” (1-10), my translation.</p>
<p>“The city council has made agreements in order to make public spaces respected. Across La Costera Avenue street vending is prohibited. Along the whole avenue, and also on some of the main streets of the Historic Center, particularly in the <i>Zócalo</i>” (1-3), my translation.</p>
<p>“In squatter settlements we don’t have such kind of problem, because the neighbors dedicate themselves to this kind of commerce, and they know each other, so there is somehow a tolerance and we don’t receive many complains, you know? [...] In squatter settlements there is no problem; it is not allowed only in the tourist zone, [...] where there is more traffic, more people walking around” (1-8), my translation.</p>
<p>“In the tourist zone we have this problem with street vending, and also in the rest of the city we have the same problem. In respect to the tourist zone, it is more regulated, because there are places that were given to the street vendors. In the other part of the city they establish themselves and we don’t do anything to regulate them, whether or not they can use a particular street” (4-5), my translation.</p>
<p>“[In the tourist zone] it is permanent, 24 hours, 365 days a year, there are people who are careful and making the norm be respected. Sometimes there are street vendors who come with one-meter cloth and run from one place to another, trying to evade inspectors, but in few days they are identified, inspectors learn how they work, which spaces they use” (5-5), my translation.</p>
<p>“Street vending is a problem across the entire city, not only in the tourist zone. But what matters is that tourists are not annoyed in public spaces, such as the beach, such as the streets” (6-4), my translation.</p>
<p>“We have been controlling street vending to avoid it to in La Costera. But, if you come to the Historic Center, probably you have already seen them, if you go to the public markets, if you go to Las Naciones Boulevard, it’s crowded with street vendors. But we always tell street vendors ‘look, here in La Costera you cannot do this, but I’m going to send you over there,’ because it’s the tourist zone” (7-10), my translation.</p>

**Table 16 – Street vending in Acapulco**

**Source:** elaborated by the author, based on interviews with local authorities

The tourist zone is taken seriously as a zoning district concerning street vending. Nonetheless, plenty of unauthorized street vendors can be observed in tourist areas such as the beaches and to a lesser extent

<sup>104</sup> On the conflicts between street vendors and established merchants, see the newspaper reports *El Sur de Acapulco*, 2 May 2011; *La Jornada Guerrero*, 21 Feb. 2007; 24 Mar. 2008.

<sup>105</sup> Interview with a local authority (1-9), my translation

even on La Costera Avenue. Apart from the problems of enforcing the legislation, much of the visibility of the street vendors in the tourist zone is related to collective action. The policy for controlling street vending has been facing fierce opposition over the last decades. Street vendors argue that they have the right to organize themselves to use public spaces to make a living according to their own ideas and criteria, even violating the legislation if they have no other means to survive.<sup>106</sup> Episodes of open, blatant confrontation between street vendors and the public administration agencies are common. Massive demonstrations have been organized, including blocking avenues and streets, in order to force the local authorities to start negotiations and make agreements over the content and enforcement of norms.<sup>107</sup> That is, street vendors make use of public spaces not only as means of economic subsistence for their families, but also for political activism. Some local politicians have seen this kind of conflict as an opportunity to act as mediators, and often make electoral gains through negotiations by urging inspectors to be more flexible about the enforcement of norms.<sup>108</sup>

There is another side to the streets vendors' collective action. They do not form a homogenous group and do not always act together. Sometimes they compete among themselves in the streets, and sometimes vendors who have a permit assume the role of inspectors themselves and denounce unauthorized colleagues to the municipal authorities. More importantly, many street vendors find themselves compelled to take part in permanent organizations in order to get a permit, and thus start to work under the supervision of leaders who maintain specific territories of the city under their control. On the one hand, this provides organized street vendors with more favorable conditions for resisting the local authorities' strategies of social control. If the organization is strong enough, it eventually succeeds in establishing privileged relationships with local politicians, based on the exchange of political support for tolerance towards the territories that they make use of for the unauthorized activities. On the other hand, leadership struggles within street vendor groups and between leaders of different groups often result in violence and corruption.<sup>109</sup> Some interviewees went as far as to suggest that there are street vendor

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<sup>106</sup> See interview with a local authority (1-5).

<sup>107</sup> See the newspaper reports, *La Jornada Guerrero*, 4 June 2010; 10 April 2009.

<sup>108</sup> See interviews with local authorities (1-5, 5-4, and 11-7).

<sup>109</sup> See newspaper reports *La Jornada Guerrero*, 1 April 2009; 4 April 2009; 8 June 2010.

organizations operating under the control of mafias, indirectly related to the powerful drug cartels.

An additional issue to be taken into account is that street vending is still considered a socially legitimate activity not only according to most local residents, but also most of the tourists who visit the city. Whenever they decide to buy a good that is being sold by a street vendor on the beaches and streets, they somehow legitimize social norms governing this consumption relationship. Tourists are aware that they can simply say ‘no, thanks’ if they feel uncomfortable. There are plenty of tourists in Acapulco, particularly at the lower end of the income scale, who cannot pay to eat in restaurants and actually find the possibility of buying cheap foods and goods on the beach directly from street vendors very convenient. Also, whenever a group of people decide to engage in street vending in Acapulco, it is likely that they do not regard themselves as wrongdoers. Quite the opposite, when thousands of people are doing exactly the same, including their relatives and neighbors, such an economic activity is not seen as deviant behavior. Moreover, street vending has a long history in Mexico and is frequently depicted as part of the country’s traditions.

#### *5.4.2 Political Activism*

Guerrero’s contemporary history has been characterized by fierce social struggles. Although Chilpancingo is the capital city, sit-ins, rallies, marches, and other kinds of demonstrations take place mainly in Acapulco. The use of public spaces for political activism is part of the everyday life of the city, even if large-scale protests do not occur so often. Government negligence towards the needs and demands of particular social groups, special political circumstances, and the proximity of elections are some reasons behind large-scale protests. In addition to street vendors, there are many other groups who take the streets of Acapulco to protest. Over the last years, Guerrero’s Union of Workers on the Public Education (CETEG) promoted massive demonstrations. Private sector workers, such as hotel employees, also organize rallies and sit-ins. Figure 18 shows a peace march in La Costera Avenue, a protest against the killings related to drug gangs. Beyond a means for expressing political messages, demonstrations reflect failures in the institutional channels of dialogue between those who are protesting and those in positions of power.

Local authorities claim that in Mexico “there is freedom of expression, everybody can walk around and speak freely whatever

words they wish without being offensive to anyone.”<sup>110</sup> Yet, preventing and controlling political activism in public spaces has been on the political agenda for a long time. Many government officials think that the problem is that the use of streets for marches and rallies affects ‘third parties’, who do not have anything to do with the content of the demonstration. That is, demonstrations may conflict with another right, the freedom of movement. In the words of an interviewee, “the freedom of movement is proclaimed in the Constitution of Mexico, which is the supreme law and involves all of us. It is an individual freedom of the human being, it is something that I have and nobody can take from me, absolutely nobody, not even the president.”<sup>111</sup> Surely, the use of city streets by political activists mostly affects the freedom of movement of those who rely in motorized vehicles for everyday travel, which includes both residents and tourists.



**Figure 18 – A peace march on La Costera Avenue, in front of Papagayo Park**  
**Source: photographed by the author, 2011**

Street protest may affect tourists’ everyday movement across the city in a very practical manner. For instance, local authorities report that occasionally “there are demonstrations that result in tourists missing their flights, because they cannot manage to pass through a march, sometimes they have to pass through with their luggage and take cabs on the other side of the march.”<sup>112</sup> But most of the time, small-scale protests are not seen as a practical problem, and go completely

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<sup>110</sup> Interview with a local authority (5-6), my translation.

<sup>111</sup> Interview with a local authority (1-11), my translation.

<sup>112</sup> Interview with a local authority (9-8), my translation.

unnoticed by visitors. Local authorities consider the ways through which demonstrations damage the tourist image more problematic, because large-scale protests are reported in the national newspapers and television. In this respect, there is a degree of similarity regarding what happens in respect to the drug wars in Mexico. Although the violence of this kind very rarely targets tourists directly,<sup>113</sup> everyone is aware that the perception of insecurity inevitably affects the image of the city.

Local authorities claim that the policy for controlling political activism is based in a conciliatory rather than a repressive approach. First of all, efforts are taken to promote conciliation between the social groups who are part of a declared conflict, in order to prevent demonstrations from taking place in the city. As a local authority explained, “this is about taking care of people. When they arrive with their placards, we take them into the city council premises, the heads of the municipal departments show up; all this is about deactivating such kind of situations.”<sup>114</sup> Another added that “we have to make the person who is thinking about organizing a protest hope that the issue is going to be solved soon; this is about preventing the obstruction of streets.”<sup>115</sup> A third one stressed that “they are offered dialogue [...], we invite them to attend a meeting, in which we listen to complains, and in which the authorities in charge can give them an answer.”<sup>116</sup> Nevertheless, the conciliatory approach is dependent upon politicians’ skills and promises that are made but not necessarily fulfilled afterwards.

Once the conciliatory approach fails, authorities have to rely on the permit system established to manage the use of public spaces for demonstrations. According to the *Policing and Governance Ordinance*, in order to realize rallies and marches, municipal authorities must be advised at least 36 hours in advance. Basically, the organizers should inform the authorities regarding the motivation of the protest, the location, time and the organizers themselves.<sup>117</sup> Most of the times this procedure is followed by protesters: “they are obliged to ask for a permit, have to notify the authority that they will walk on a particular street, arrive in the *Zócalo*, have a gathering of 30, 40 minutes [...], we

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<sup>113</sup> Government officials highlight that in Acapulco “the killings are committed among drug gangs themselves,” “the possibility of victimization of tourists is quite low,” and “there are no victims among visitors, [...] who don’t have problems such as being involved in shootings.” Excerpts from interviews with local authorities (9-2 and 10-7), my translation.

<sup>114</sup> Interview with a local authority (9-8), my translation.

<sup>115</sup> Interview with a local authority (1-6), my translation.

<sup>116</sup> Interview with a local authority (5-6), my translation.

<sup>117</sup> Art. 30, *Policing and Governance Ordinance*.

then have the time to make arrangements, change the traffic flow, take care of tourists, citizens that could be affected, we are already aware of what is going to happen, how many people are going to take part, and how long the gathering is going to be held.”<sup>118</sup> “They let the Governance Department know about it: ‘tomorrow there will be a march in La Costera, from Papagaio Park to the main square. I am telling you, it’s going to take place at 10 am’.”<sup>119</sup>

Acapulco’s main avenues, namely La Costera, Cuauhtémoc, and Ruiz Cortines are usually chosen for demonstrations. Since there is intense traffic of motorized vehicles on these streets and few alternative roadways, any kind of large-scale march results in a chaotic scenario for all of those who use cars, taxis, and buses for transportation. But even when political activists choose to organize rallies in front of public administration agencies, or in the city’s main plaza, motorized vehicle traffic is likely to be affected, given that these places are also located near the main streets. Arguably, the chaotic consequences for the traffic flow can be avoided only in the few occasions when protest takes place on the beaches. The beaches have been a sort of free-speech zone thus far, because the norms that apply to the use of streets and plazas are not enforceable there. But as a local authority put it, “who are you going to disturb on the beach? A march is a means of pressure and on the beach you can walk on the sand, but you don’t disturb the traffic, you don’t generate stress... It would be good if all demonstrations were held on the beaches, because other people wouldn’t be affected.”<sup>120</sup>

The government policy of negotiating with protesters is derived from two basic characteristics of social life in Acapulco, which both political activists and authorities know very well. First, the traffic flow is already confusing, and degenerates into a chaotic scenario whenever there is any additional obstruction. Second, Acapulco is a tourist city, which has an image to be preserved. For instance, one of the interviewees reported that the members of the municipal government were proud of having a mayor “who is a big political mediator, in this administration there were less than a handful demonstrations so far, and they took place not in the tourist zone but in front of the City Hall, and therefore haven’t brought any annoyances to tourists... In the last administration there was a school teachers’ demonstration that blocked La Costera Avenue for 15 days. In this administration this would never

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<sup>118</sup> Interview with a local authority (5-6), my translation.

<sup>119</sup> Interview with a local authority (7-11), my translation.

<sup>120</sup> Interview with a local authority (12-4), my translation.



be allowed, it is not allowed, we ask for the intervention of the police [...]. First, nobody is allowed to break the law in Acapulco. Second, because affecting the tourist zone is affecting the source of employment of the people of Acapulco.”<sup>121</sup>

Indeed, in small-scale as well as in large-scale protests, activists’ ability to partially or totally obstruct the main avenues at least for a couple of hours are effective mechanisms to put pressure on authorities. In this situation, repression has been the most common reaction, because authorities are very much afraid of the negative consequences of demonstrations for the tourist trade.<sup>122</sup> Municipal and regional governments are allowed to mobilize the police forces to maintain the public order. Very often, they use violent means to disperse demonstrators. Also, they have turned to a strategy of criminalization of acts of blockage. Since an amendment was approved in 2003, *Guerrero’s Criminal Code* defines the act of deliberate obstruction of an urban roadway as a crime.<sup>123</sup> Consequently, local authorities can request the opening of preliminary investigations for identifying the leaders of demonstrations that are blocking an urban roadway. Criminal charges against them may be presented before the courts. As a result, almost every large-scale demonstration is now followed by preliminary investigation requests, and often by orders of detention of its leaders.

Some groups of political activists believe that preliminary investigations and the arrest of their leaders for a couple of days may in fact bring certain beneficial consequences to their collective cause. For instance, this may raise media’s attention and people’s solidarity against a government that in addition to not meeting protesters’ claims, also uses repressive force against them. They often take advantage of the possibility of negotiating with authorities as an alternative to resist strategies of spatial control. Criminal charges are sometimes withdrawn, depending on whether or not a particular group of activists is seen as powerful enough to make authorities believe that it is able to promote further demonstrations that could bring about consequences for the next elections, particularly for their individual political careers. Nevertheless, activists from smaller groups tend to think that challenging the norms of the permit system is too risky from an individual perspective, and thus are more likely to comply with legal norms.

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<sup>121</sup> Interview with a local authority (6-4), my translation.

<sup>122</sup> See newspaper reports *El Universal*, 21 Oct. 2010; *El Sur de Acapulco*, 3 May 2011; *La Jornada Guerrero*, 12 April 2009. “

<sup>123</sup> Art. 202, *Guerrero’s Criminal Code*.

Political activism is traditional in the State of Guerrero. Some tourists may find that large-scale protests are inconvenient events and signs of social strife. Most have learned, however, that demonstrations are part of any democratic society. From local residents' perspective, many of the places marketed as tourist attractions also happen to be traditional, central plazas and streets, such as the *Zócalo* and La Costera Avenue, where for several decades people have gathered and on occasion demonstrated. There are plenty of reasons justifying why they need to convey a political message right there, and not somewhere else. In those places, political discourses are made visible for much larger audiences, including politicians and civil servants. Perhaps secondarily, it is also a goal to be listened to by a wider world audience through media coverage and visitors.

#### *5.4.3 Street Maintenance*

Since the 1950s squatter settlements have spread throughout the outskirts of Acapulco as a housing alternative for the poorest newcomers. In fact, they are still growing. Squatter settlements in the amphitheater, due to the topography and the narrow, tortuous paths, remain in complicated conditions. In spite of the heterogeneity among and within the hundreds of irregular settlements, they have something in common. There is an inversion of the legal norm stipulating that, before the occupation of the land starts, real estate developers shall provide the new lots with paved streets, sidewalks, drainage system, running water, electricity, as well as leisure and green areas open to the public. Instead, what often happens is that residents themselves take the responsibility of making improvements and consolidating the urban settlement, while the government only gradually assumes the role of providing minimal infrastructure.

Access to the most basic infrastructure is still far from universal. It is estimated that one out of five inhabitants does not have access to running water or sewage at home. Also, a considerable number of residents live in neighborhoods almost without paved streets, sidewalks, leisure, or green areas.<sup>124</sup> Integral urbanization programs are rarely carried out, as they usually depend upon struggles for tenure regularization, costly and time-consuming investments, and long-term political decisions. The municipal government intervenes mostly through small-scale, punctual improvements, which result in more

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<sup>124</sup> See interviews with local authorities (4-4 and 7-1).

immediate electoral gains. Of course, street maintenance depends on whether or not there are public spaces to be maintained. As an interviewee put it, “if there are not paved streets, sidewalks, we cannot work there. If an irregular settlement is relatively recent, public services haven’t arrived there yet.”<sup>125</sup>

The contrasts between the informal and formal zones are notable. The latter were provided with the required infrastructure by real estate developers from the very beginning. As soon as they were occupied by the first residents, street maintenance services such as street cleaning, sweeping, gardening, and lighting, as well as waste collection was provided by the municipal government. It was not until the 1990s that the proliferation of gated communities, which at the turn of the century became the most common modality of urbanization, gave rise to a third scenario. In projects of this kind, private developers are required to provide the adequate infrastructure, but they are no longer obliged to open the streets, sidewalks, and leisure areas situated in the interior of the gated community for public use. At the same time, the government is no longer responsible for maintaining the internal areas, whose access becomes a residents’ exclusive right.

Apart from the case of gated communities, legal norms governing street maintenance are the same throughout the entire urban perimeter. Government officials are reluctant to recognize that priority should be given to the tourist zone in respect to maintenance services. Nonetheless, some testimonies suggest that they are influenced by the ideological norms of the tourist Acapulco: “What we try to do is to give attention both to the tourist zone and the squatter settlements; we try to work in the same manner. But we know that we are dependent on tourism; so we need to keep the tourist zone very clean, without being careless about squatter settlements at the same time.”<sup>126</sup> “Services are the same for everybody, in the tourist zone as much as in the rest of the neighborhoods. Obviously, when it’s the high season and tourists arrive, we have to neglect the neighborhoods a little bit to take care of the numerous tourists who arrive in the tourist zone; this doesn’t mean that we abandon them, just that we first take care of visitors, and the neighborhoods come afterwards.”<sup>127</sup> “The tourist zone is the one which gives us money; for sure it’s the one we have to take care first and

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<sup>125</sup> Interview with a local authority (4-7), my translation.

<sup>126</sup> Interview with a local authority (4-7), my translation.

<sup>127</sup> Interview with a local authority (7-7), my translation.

foremost, and then the other zones. So yes, there is special attention given to the tourist zone; it must be like this.”<sup>128</sup>

The organization of tasks tends to reinforce the uneven distribution of street maintenance services between the tourist zone and the non-tourist zone. There are two public administration agencies at the regional level, PASP and PROTUR, focused on maintenance efforts exclusively in the tourist zone. There are also agencies at the municipal level, such as the Urban Image Department and the Green Areas Department, that perform their tasks in the tourist zone almost exclusively. Even in the case of services like waste collection there is a priority on the tourist zone embedded in the organization of the services. The municipal government established agreements with private companies that have been running waste collection routes across the non-tourist zone, with the declared goal of improving the efficiency of services. But the guidelines found on the contracts for the provision of these services are vague and the Sanitation Department’s supervision of their execution is not very rigorous. In the tourist zone, however, the waste collection routes are still the Sanitation Department’s responsibility. This means that maintenance services are not only performed more frequently, but also include special items such as nocturnal sweeping.<sup>129</sup>

As a result, while a considerable amount of financial and non-financial resources are addressed to street maintenance in the tourist zone, it is much less consistent in the rest of the city (see Figure 19). According to local authorities, one or two joint operations (*operativos*) are carried out daily in different neighborhoods, by brigades from various municipal departments that are required to perform their tasks in close coordination.<sup>130</sup> Nevertheless, this makes it evident that street maintenance is not permanently organized, except in the tourist zone. Of course, government officials know that street maintenance is needed throughout the entire city, but they are also aware that this is far from being on the top of the list of priorities in respect to neighborhoods which are lacking even paved streets and sidewalks. As one of the interviewees pointed out, “It’s such a short term to be in charge of government. The mayor thinks, ‘there are streets to be paved, I have to take care of La Costera, and I have my political career’.”<sup>131</sup>

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<sup>128</sup> Interview with a local authority (10-8), my translation.

<sup>129</sup> See interviews with local authorities (1-7, 4-5, 5-7, and 9-9).

<sup>130</sup> See interviews with local authorities (4-6 and 7-3).

<sup>131</sup> Interview with a local authority (9-9), my translation.

According to local authorities, the tourist industry does not play any major role in street maintenance. Hotel and restaurant owners collaborate by means of taxes, and some are very active in taking care of their own premises, but nothing more.<sup>132</sup> When something is done, including actions such as putting pressure on the public administration agencies responsible for maintenance services, it is done on behalf of an area in the tourist zone. Interestingly enough, the exception confirming the rule comes from a sector not strictly associated with the tourism industry. Recently, the licensed Coca-Cola bottler in Guerrero sponsored a project to install standard street signs across the city. But only in exceptional cases like this one, do actions of this kind make sense for a local company, in terms of marketing strategy. Companies belonging to the tourist sector, whose clients do not live in the city and just circulate within the tourist zone, do not have reasons for making their brand visible in the poorest neighborhoods of the city.



**Figure 19 – Above, a street in La Zapata neighborhood; below, La Costera Avenue**  
**Source: photographed by the author, 2011**

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<sup>132</sup> See interviews with local authorities (6-5, 8-8, and 10-8).

Local residents could do a great deal to challenge the organization of street maintenance services. For instance, they could reduce the disposal of trash in their own neighborhood. But government officials argue that “city’s inhabitants are almost convinced that they can throw trash on the ground, because they know that cleaning up it’s a City Hall’s duty.”<sup>133</sup> Also, residents could carry out maintenance efforts themselves. But “in Acapulco residents do not have any kind of responsibility. If this was the case, then they would think that they owned the streets.”<sup>134</sup> Neighbors could also urge authorities to provide better services, since they are voters and have the possibility of acting as a pressure group. Indeed, some are engaged in informal user associations (*comités de controladoría social*). Nonetheless, the municipal government itself encourages the creation of these associations in a paternalist manner, in order to maximize electoral gains.<sup>135</sup> In sum, critical and sustainable forms of collective action from below are not strong enough among city’s residents.

#### *5.4.4 Square Redevelopment Projects*

In the city’s informal settlements, and even in middle-class residential neighborhoods, there is generally a lack of parks and squares. Nonetheless, a considerable number of public spaces of this kind are found in Traditional and Golden Acapulco. The most important certainly are the main plaza, La Reina Park, Papagayo Park, and La Quebrada Plaza, but there are also small squares of relevance along La Costera Avenue. Diamond Acapulco is an exception in this respect because it is dominated by fortified enclaves. In recent years, however, this unbalanced distribution of plazas has started to change. In 2007 the federal government launched an ambitious initiative aimed to redevelop plazas and parks situated in the country’s main urban centers, the Public Spaces Redevelopment Program.

This initiative is one of the strategies of action defined within the context of the war on organized crime in Mexico. The program’s declared goal is to counterbalance crime repression with a crime prevention strategy based on investments in poor neighborhoods. Nonetheless, its specific focus on public space redevelopment is a novelty compared to previous programs. First, investments are made in

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<sup>133</sup> Interview with a local authority (7-15), my translation.

<sup>134</sup> Interview with a local authority (1-8), my translation.

<sup>135</sup> See interview with a local authority (7-4).

the physical rehabilitation of plazas and parks and on occasion also in the construction of new ones. Second, redeveloped public spaces benefit from a variety of activities supported by the government, such as recreational, cultural, sport, professional, and educational projects. By encouraging the use of plazas and parks, particularly by young people, the government seeks to achieve higher degrees of social cohesion and therefore reduce violence. In the words of an interviewee, such an initiative “doesn’t solve ‘the problem,’ but it definitely helps.”<sup>136</sup> Another government official added that it “should be a top priority, almost a question of national security.”<sup>137</sup> In fact, since the very beginning the Public Spaces Redevelopment Program was conceived as part of the national criminal policy.

At the core of the Public Spaces Redevelopment Program there is a financial and operational partnership between the federal and the municipal governments. It is executed under the supervision of the National Social Development Secretary (SEDESOL), which also establishes the norms guiding its functioning, implementation, and evaluation. Funds required for the physical redevelopment of plazas and parks come mainly from the federal budget, while the municipal government is responsible for carrying out the implementation of the projects. Local counterpart funds are also involved and are used mainly for maintenance services and recreational, cultural, sport, professional, and educational activities. From time to time, municipalities must provide accounting records of the investments made to SEDESOL, which evaluates the outcomes and decides whether or not new transfers of funds will be assigned for the upcoming years.

The Public Spaces Redevelopment Program was seen as a window of opportunity by local politicians, opening possibilities for making electoral gains from the implementation of a heavily subsidized and marketed federal program. In addition, the program’s rhetoric, focused on fighting violence through social investment, was attractive to local authorities due to the rampant violence related to the drug war. That is, it was also seen as a genuine opportunity for doing something to change the state of affairs. Although small-scale and discontinuous interventions in poor neighborhoods, such as the construction of basketball courts and playgrounds, are not uncommon in Acapulco, the federal program was not understood as just more of the same. On the contrary, it meant that for the first time a more consistent policy for the

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<sup>136</sup> Interview with a local authority (3-1), my translation.

<sup>137</sup> Interview with a local authority (8-6), my translation.

redevelopment of public spaces could take place, based on the encouragement of community involvement and constant maintenance efforts. From 2007 on, the local government managed to create and rehabilitate parks, plazas, and sport courts distributed across distinct neighborhoods (see Figure 20).



**Figure 20 – Redeveloped public spaces in Acapulco**  
Source: photographed by the author, 2011

The Public Spaces Redevelopment Program's implementation actually occurred parallel to another policy concerning square redevelopment projects, but focused on the tourist zone. One of the most noticeable initiatives resulted from an international twin cities program. It was decided by the city council that small plazas and beach accesses should be turned into public spaces designed in tribute to particular



countries. In arrangement with sister towns and embassies, plazas in honor to countries such as the United States, France, Russia, Spain, and Japan have been inaugurated along La Costera Avenue, with the intention of attracting international visitors' attention.<sup>138</sup> Also, investments have been made in the redevelopment of public spaces surrounding the key tourist attractions, such as La Quebrada cliffs and Caleta and Caletilla beaches. Moreover, traditional parks and plazas of the tourist zone, such as the main square, la Reina Park, and Papagayo Park were physically redeveloped. Nonetheless, there is limited community involvement and the tourism industry also has not made any financial contributions to this kind of redevelopment project.<sup>139</sup>

These two policies of course have very different goals, but the concern about the image of the city is a point of convergence. Since violence is a major problem affecting the image of the city, local authorities expect that the policies for poor neighborhoods will be reflected in the tourist zone. As a local authority pointed out, because of violence, Acapulco "has to contrast such bad image with the activities which have been promoted daily, the *Zócalo* full of people dancing, la Reina Park crowded with children, activities in the parks."<sup>140</sup> But the Public Spaces Redevelopment Program focuses on local residents instead of tourists. The norms governing the federal program do not allow investments in plazas and parks situated in the tourist zone. As a local authority put it, "these are not social spaces, but tourist spaces."<sup>141</sup> Arguably, also the profile of the tourists who arrive in Acapulco is of a visitor who is looking for beach activities, beautiful views, shopping and nightlife entertainment, rather than parks and plazas. Even Papagayo Park, a tourist attraction, does not get much attention from visitors.

The Public Spaces Redevelopment Program's implementation has involved more actors than the municipal departments and SEDESOL. In the first stage of the implementation process, which is concerned with the selection of public spaces where interventions are going to take place and elaboration of physical redevelopment plans, there has been a lack of participation from local residents. "It's when problems start [...], the park that was designed by the architect of the municipal government at his office, but without public toilets,"<sup>142</sup> as an interviewee illustrated. Lack of participation also affects the second stage, in which private

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<sup>138</sup> See interviews with local authorities (9-1 and 10-9).

<sup>139</sup> See interviews with local authorities (3-2, 5-8, 9-10, and 10-8).

<sup>140</sup> Interview with a local authority (2-2), my translation.

<sup>141</sup> Interview with a local authority (6-5), my translation.

<sup>142</sup> Interview with a local authority (3-2), my translation.

contractors are hired for executing physical interventions. “The private contractor arrives, says ‘this is how the park looks like now, so let’s work on it’, and the people do not take part in the execution directly,”<sup>143</sup> the same interviewee added. Nevertheless, in a third stage, when the maintenance of the rehabilitated park is at stake, the participation of the beneficiaries through associations of users is required by the government.

Although local authorities consider that the Public Spaces Redevelopment Program has been a successful experience as a whole, the outcomes of each project vary substantially. Earlier projects, focused only on physical redevelopment, failed completely due to the lack of local residents’ participation. Successful projects, noticeably the ones located in middle-class residential areas close to the tourist zone, rely on maintenance services provided by municipal departments. However, there are parks that have a very active users’ association, whose members assume the responsibility for maintenance services themselves. Rampant violence partly explains the lack of participation. As a government official put it, “People keep a distance, phenomena such as drug dealing, and the violence, have affected participation. The neighbors don’t want to get very involved; they are aware that they may put themselves in a situation of conflict, they are afraid.”<sup>144</sup>

As much as being worried about losing something, local residents want to know whether or not they gain something by taking part in users’ association, as they often distrust the possibility of uninterested participation. In the poorest neighborhoods, taking part in a users’ association sometimes means to be in a position of power within the community, because it is responsible for the only public space available for the use of thousands of families. In addition, the users’ associations are not only allowed, but expected to elaborate and enforce informal norms governing public spaces. For instance, most of the parks are closed, and the keys are given to the users’ association leaders, who decide about opening hours. Also, the leaders often charge neighbors for accessing the toilets, and ask for the payment of a fee if someone wants to use the park for a birthday or wedding party. The local government is less tolerant towards norms that might violate the Public Spaces Redevelopment Program’s framework. For instance, vendors are prohibited inside the parks.<sup>145</sup>

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<sup>143</sup> Interview with a local authority (3-2), my translation.

<sup>144</sup> Interview with a local authority (3-3), my translation.

<sup>145</sup> See interviews with local authorities (2-3, 3-2, and 5-8).

#### *5.4.5 Social Norms and Social Groups*

Empirical conflicts over public spaces suggest that the actions taken by government officials in order to implement and enforce legal norms have an important impact on the life of street vendors, political activists, tourists, merchants, and residents. There will always be a gap, narrow or wider, between norms explicitly written in planning documents and statutory texts and the ways these norms affect people's everyday actions, including local authorities' actions. Nothing is more false than arguing that, "In Acapulco there are many statutes, what is missing is compliance."<sup>146</sup> The findings from this case study show that legal practices are characterized by a high degree of spatial selectivity. The implementation and enforcement of legal norms is far from being identical across the city. Whether or not a particular place is situated in the tourist zone seems to be one of the main criteria justifying uneven regulation at the layer of concretized relationships. Nevertheless, social norms and territories also play a role.

Concerning the state's repressive role, a permit system combined with the establishment of zoning districts was implemented to deal with street vendors and political activists. There is tolerance towards them throughout the city, except in the tourist zone. Nevertheless, both groups still remain visible there. This is partly due to the fact that street vendors, and on occasions also political activists, are too numerous. When conduct that deviates from legal norms is normal rather than exceptional behavior, sophisticated systems of control may not be settled or strictly enforced because they are too difficult to manage. In addition, both groups often succeed in taking advantage of enforcement problems, including conflicts of jurisdiction between public administration agencies. A less evident motive is that street vendors and political activists, regardless of being the target of legal norms, often act as norm-setters in respect to social norms. They organize themselves in order to force authorities to start negotiations and reach agreements relating to the enforcement of norms. Such a process is not exempt from ambivalence, since social norms developed within an organization to guide the behavior of its members are likely to affect unorganized individuals as well. They find themselves compelled to take part in organizations, which are able to maintain territories outside of the state control.

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<sup>146</sup> Interview with a local authority (8-7), my translation.

Regarding the state's promotional role, ideological norms are also influential. The uneven distribution of public investment between the tourist and the non-tourist zone is to a great extent embedded in the legal framework of street maintenance and square redevelopment projects. The interaction between the state and the private sector reinforces such zoning mechanisms in terms of legal practice; most companies in Acapulco belong to the tourism industry and have a very limited interest, if any, in cooperating directly or indirectly to improve public uses of places situated outside the tourist bubble. Nonetheless, the interaction of authorities with local residents is much more contradictory. After the Public Spaces Redevelopment Program was launched, granting substantial financial resources from the federal government to the non-tourist zone, the creation of users' associations has been encouraged by local authorities with the aim of maximizing electoral gains. In the poorest neighborhoods, leaders of users' associations backed by the municipal government are assuming control of public spaces across the city, setting social norms and regulating behavior as much as governing maintenance services. It is still unclear the extent to which the resulting community territories may challenge the priority today given to the tourist zone in terms of public investment.

### ***5.5 Concluding Remarks***

Tourism has been structuring the urbanization of Acapulco. The city gained fame internationally during the Second World War, when it was turned into a paradise for elite visitors. The postwar wave of mass tourism coming from developed countries marked its golden years as a tourist destination, but also generated uncontrolled urban growth and the rise of an urban divide between Traditional Acapulco and Golden Acapulco, on the one hand, and the squatter settlements situated at the amphitheater, on the other hand. Urban and tourist planning became a significant matter of concern only when the perceived disorder started to be seen as a disadvantage in comparison to the new Integrally Planned Tourist Centers. Acapulco also tried to replicate this model through the creation of Diamond Acapulco, and was reinvented as a tourist city of fortified enclaves, oriented mainly to the national market.

Overall, the idea of once again converting Acapulco into a first-class destination is part of the local elite's imaginary. Nonetheless, the new directions for tourist development that are being discussed are basically the same as those that are already being followed by the city's main competitors in the tourist market. In fact, Acapulco is trapped

because its urban policies never differed substantially from its tourist policies, which is also true in respect to its public spaces. Patterns of uneven development between the tourist zone and the non-tourist zone are observable in respect to private spaces as much public spaces. Although the tourist/non-tourist divide is today one among other contradictions, it remains the fundamental one. Uneven development resulted from the historical production of the tourist Acapulco, but inequalities have been reproduced daily through the selective control of the public of users and through the unbalanced distribution of investments in the promotion of public uses.

The evidence from this case study shows that such a process is mediated by norms. Public spaces are regulated in Acapulco thanks to the interplay of three types of norms – the ideological, legal, and social norms –, which constitute a wide variety of property relations over public spaces. Ideological norms arise within the process of conceiving representations of space related to tourism. They influence local authorities' action, but alone are too weak for the job of regulating public space. There is a need for a state policy concerning the management of public spaces, constituted by legal norms. The latter are essential to guide the legal practice of the agencies of the public administration. Legal norms are not the same in the entire urban perimeter, and also are enforced unevenly, depending on whether or not a place is situated in the tourist zone. Social norms settled by public space users also have a role to play in terms of constituting territories.

The tourism industry is the social actor who benefits most from the exclusion of particular social groups' actions and discourses from the tourist zone. However, excluded groups such as street vendors and political activists tend to fight back, demanding inclusion. Strategies to improve public spaces have been implemented unevenly, with declared priority on the tourist zone. Even top-down initiatives focused on the non-tourist zone, such as the ambivalent Public Spaces Redevelopment Program, are implemented at the local level taking the image of the city as the central matter of concern. This means that they are insufficient to challenge current patterns of uneven development. In the case of Acapulco, apart from ideological norms related to liberal democracy, such as those related to freedom of work and freedom of expression, there is no evidence of the reproduction of ideological norms that could potentially counterbalance the ongoing tourist-oriented policy concerning public space regulation.

## CHAPTER 6

### The Search for the Authentic:

#### Public Space Regulation in San Sebastian, Spain

In the popular imaginary, San Sebastian still evokes images of nationalist terrorism. These are only rivaled by the vision of a bay of calm waters mirroring a town of pleasant facades and charming promenades, surrounded by green hills. This appealing vision, lasting since the second half of the 19<sup>th</sup> century, has made this Basque city close to the border between Spain and France one of the first tourist resorts in Europe. La Concha Bay serves as the cover photo of the city's application to receive the title of European Capital of Culture 2016, under the slogan "Waves of Energy, Culture to Overcome Violence."<sup>147</sup> It was chosen to host this highly prestigious event out of a dozen of applicant cities, including candidates such as Cordoba, Zaragoza, and Segovia.<sup>148</sup> For the period of one year, a set of cultural activities with a transnational scope will take place in its museums, parks, streets, squares, and beaches.

The Selection Committee explained its decision by highlighting four aspects of San Sebastian's bid.<sup>149</sup> First, the quality of the cultural program based on the principle of making not only the projects to be launched in the coming years but also already existing initiatives more robust. Second, the city's ambition to foster its connection to Europe and the world as a whole, using the event as a catalyst for this transformation. Third, the unanimous support given by the City Council, the Provincial Council of Gipuzkoa, and the Government of the Autonomous Community of the Basque Country; backed by numerous partner organizations and corporate sponsors. Fourth, the belief that the title of European Capital of Culture would encourage renewed efforts to remodel old spaces and construct new ones where people's multiple

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<sup>147</sup> See the document *Waves of Energy, Culture to Overcome Violence*. Such a representation of the city contrasts to what is found in the proposal submitted at the pre-selection stage (see *Waves of Energy, Culture for Coexistence*). The image of the Bay of La Concha replaced pictures of people running from a sea of turbulent waves, a quite inappropriate image after the tsunami which hit Japan in March, 2011. Earlier in that year, *Euskadi Ta Askatasuna* (ETA) announced a permanent ceasefire. Symptomatically, the crude images alluding to the Basque conflict also disappeared from the application for the final selection stage.

<sup>148</sup> Under the current rules (see *Decision n. 1622/2006/EC*), two cities are designated for this honor every year. A competition is organized between cities within the host countries, according to a predefined order of European Union's Member States entitled to make nominations. San Sebastian and Wrocław (Poland) were nominated to be the capitals in 2016.

<sup>149</sup> See the *Pre-selection Report* and the *Final-selection Report*.

identities and values could coexist respectfully, making a decisive contribution to heal the wounds left by decades of violent confrontation.

One might speculate that certain factors weighted more heavily than others in the decision of electing San Sebastian as the European Capital of Culture. But one may also ask whether it is possible to put any politics of space capable of conciliating such different concerns into practice. Reducing the image associated with violence and strengthening the image associated with human rights, making culture a vehicle for social inclusion, and improving acceptance of diversity might be contradictory goals. It is even more doubtful the possibility of making this urban agenda compatible with the aims of attracting creative business, increasing tourist arrivals and visitors' expenditure levels, and creating new economic activities linked to tourism.<sup>150</sup> Reliance on public-private partnerships does not make this a less complicated endeavor.<sup>151</sup> In fact, the institutional discourse behind the bid is similar to what is already found in San Sebastian's key urban planning documents, such as the *2020 Strategic Plan*.

In this chapter, I analyze how public spaces are regulated in San Sebastian. By means of this case study, I explore the relationships between tourist and cultural policies, patterns of uneven development, and different types of norms governing public spaces. This is an urban center where living standards are high; nonetheless, the armed conflict between Basque nationalist movements and the Spanish and French states, the neighborhood associations' activism, and the process of integration of immigrants, among other issues, have made it a contested city. In section 6.1, the process of production of the tourist San Sebastian is described. In section 6.2, public space regulation is discussed at the ideological layer. In section 6.3, the analysis turns to the legal-institutional layer. In section 6.4, a series of conflicts over public spaces are examined at the layer of concretized relationships. Finally, in section 6.5, some concluding remarks are presented.

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<sup>150</sup> These are desired impacts of the selection of San Sebastian as European Capital of Culture according to the document *Waves of Energy, Culture to Overcome Violence*. There is a great deal of literature on the short-term and long-term impacts of this event. See, for instance, the report *European Cities and Capitals of Culture*.

<sup>151</sup> Although the European Union usually makes a small financial contribution to the European Capitals of Culture, the overall expenditure budget set aside for running the cultural program is mainly publicly funded at the national and sub-national levels. San Sebastian's bid proposes a consortium for managing the event. The private financing is estimated to respond for less than one quarter of the total budget. See *Waves of Energy, Culture to Overcome Violence*.

## 6.1 The Production of the Tourist San Sebastian

San Sebastian is the capital city of the Province of Gipuzkoa, a very rich historical territory in Basque Country (*Euskal Herria*).<sup>152</sup> It serves the function of commercial, technological, financial, educational, and tourist center providing a broad range of services to a region with highly developed industry and agriculture. Tourism remains of strategic relevance at the current moment in which the city is seeking to strengthen its position in the creative sectors of the global economy. In this section, I draw from the contextual literature to provide an account of the importance of tourism historically. The starting point is the city's takeoff as a pioneer tourist resort in mid-19<sup>th</sup> century Europe. The carefully planned expansion of the urban perimeter marks a second stage, the *Belle Époque* for the tourist trade. The Spanish Civil War interrupted this era and a long period of relative stagnation followed under Francisco Franco's dictatorship (1939-1975).<sup>153</sup> San Sebastian is now facing the challenge of reinventing itself as a creative city, which includes remaking its public spaces.

### 6.1.1 The New City alongside Old Town

San Sebastian was already a prosperous commercial port in the Cantabrian Sea, when Isabella II visited La Concha beach for the first time in 1845. The Queen of Spain came to the town at the foot of the Mount Urgull, limited on the one side by the Urumea River and on the other side by the Bay of La Concha, following a medical prescription. At that time, sea bathing still was not as popular an activity as it would soon become. Yet, doctors believed in the curative value of the sea, and the bay was recommended because its calm waters were considered ideal for therapeutic purposes.<sup>154</sup> The prestigious royal visit made San

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<sup>152</sup> Contested legal geographies are central to the Basque conflict. *Euskal Herria* makes reference to the lands historically inhabited by the Basques, today split between the national jurisdictions of Spain and France. On the Spanish side of the border, the concept includes Gipuzkoa, Biscay, and Alava, the three provinces belonging to *Euskadi*, the Autonomous Community of the Basque Country; in addition to the Province of Navarra, which is today another autonomous community. On the French side of the border, *Euskal Herria* includes three departments, the area known as *Iparralde*. For an analysis of these representational spaces, see Mohr (2006).

<sup>153</sup> For analyzing the first two stages of San Sebastian's history, my sources are Larrinaga Rodríguez (1996, 1998, 1999, 2006), Artola (2000), Castells (2000), and Walton (2002); and for analyzing the third stage, Calvo Sanchez (1983) and Luengo Teixidor (2000).

<sup>154</sup> Since the late 18<sup>th</sup> century, sea bathing was practiced for medicinal purposes in Great Britain.



Sebastian a fashionable vacation spot. Nevertheless, the arrival of elite visitors became more frequent only after the introduction of new transport infrastructure. In 1847, the construction of a connection to the road Irun-Madrid was concluded; and in 1864, a more significant step was taken with the inauguration of the railroad connecting Madrid to the French border, passing through San Sebastian.

A few months after the arrival of the train, the city's obsolete system of military defense was abandoned. The demolition of the walls surrounding Old Town made it possible to concretize the citizens' desire to expand the urban perimeter.<sup>155</sup> The construction of a new zone of expansion (*ensanche*) proved to be a turning point in San Sebastian's history.<sup>156</sup> The competition for selecting the expansion plan, however, was marked by a controversy over Alameda del Boulevard, today the central public space of the city.<sup>157</sup> According to the winning proposal, building lots and a small plaza would cover the area once occupied by the fortifications.<sup>158</sup> Another plan that conceived the same area as a large promenade shaded with trees came in second place. Unsatisfied with this aspect of the winning proposal, city councilors decided to speak in favor of the alameda, and their arguments were echoed in a petition signed by residents. Suddenly, two groups arose, supporting opposite sides. A passionate battle of speeches and newspaper articles came to an end in a City Council session, in which a vote resolved the issue in favor of the construction of Alameda del Boulevard.

Such a historical episode could have been a story about a conflict of interests involving landlords and preventing an increase in the total area dedicated to public spaces. But this urban expansion was planned to take place mostly on publicly owned land that was subjected to building restrictions.<sup>159</sup> This controversy has actually been widely interpreted as a crucial moment of a deeper struggle dividing the liberal-progressive elite ruling San Sebastian. It is believed that it took on such unusual proportions due to the existence of two contradictory visions concerning

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<sup>155</sup> San Sebastian's population at that time was estimated in 15,000 inhabitants, two thirds living inside the walled town and the rest in precarious dwellings in its outskirts.

<sup>156</sup> There were examples to be followed. In 1859, Ildefonso Cerdá designed the *ensanche* of Barcelona; and in 1860, Carlos María de Castro conceived the *ensanche* of Madrid.

<sup>157</sup> This is a very well documented episode in the historiography about San Sebastian. See, among other sources, the detailed analysis of Martín Ramos (2004).

<sup>158</sup> The expansion zone is known as the *Ensanche Cortázar*, in tribute to author of the winning proposal, the architect Antonio Cortázar.

<sup>159</sup> The city had been a military fortress and the *ensanche* involved filling up coastal and fluvial areas with earth. The buildings located outside of the walls had to be constructed in a way in which demolition could be easily carried out in case of war.

the future of the city. On the one hand, those that did not agree with the alameda, whose interests were reflected in the winning plan, urged San Sebastian to remain a mercantile and industrial port, prioritizing docks, markets, and facilities alike, regardless of potential negative impacts for the incipient tourist trade.<sup>160</sup> On the other hand, the alameda supporters wanted places of amusement and entertainment that could be enjoyed by residents and tourists. The decision in favor of the Alameda del Boulevard marked the triumph of the tourist model of city over competing alternatives.

### *6.1.2 The Belle Époque's Resort*

The zone of expansion more or less coincides with the Romantic Area, which is now San Sebastian's main tourist district. The winning plan divided the new city along the edge of Old Town into three sections. The first section, an area protected from the wind and limited on the north by Old Town and the south by what is today La Libertad Avenue, was reserved for the richest residents. The second section, an area in front of La Concha beach, was planned for accommodating holiday travelers and summer residents. The third section, an area beyond La Libertad Avenue, was designed to allow for more dense land use and thus be inhabited by the middle and lower classes, as an alternative to Old Town. Although building lots were privately owned, landowners were obliged to follow detailed building requirements determined by the City Council regulating the expansion zone.

San Sebastian's urban expansion was carried out very carefully by means of a public-private partnership between the 1860s and the 1920s. The most privileged section became the modern downtown characterized by the splendid building facades. Luxurious villas were built for housing seasonal residents along La Concha Bay, extending from the second section of the expansion zone to Mount Igeldo, including Ondarreta beach. Apart from Alameda del Boulevard, a plethora of tourist attractions have appeared in these two sections over the years.<sup>161</sup> Also, the city attracted distinguished and powerful visitors

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<sup>160</sup> The plea for a mercantile city also included a project of industrialization. In the 1860s, there were small and middle-size industries operating on the outskirts of Old Town.

<sup>161</sup> This list of attractions, in chronological order of inauguration, includes Santa Catalina bridge, 1872; Plaza Gipuzkoa, 1877; Miramar Palace, 1893; Grand Casino (today the City Hall), Alderdi-Eder garden, and Buen Pastor church, 1897; Maria Cristina bridge, 1905; La Concha promenade, 1910; Hotel Maria Cristina, Victoria Eugenia theater, and Mount Igeldo's

who became themselves an attraction for other tourists. Chosen as the royal family's official summer residence in 1887,<sup>162</sup> it became the tourist capital of Spain and one of the European upper classes' favorite destinations.<sup>163</sup> It was transformed into a resort for the few privileged families who could afford to travel, a symbol of the bourgeoisie of the new tourism industry, and an expression of the sophistication of the elites' lifestyle during the *Belle Époque*. Visitors still kept coming to the city during the First World War, when neutral Spain was seen as a refuge for elites whose countries were involved in the conflict.<sup>164</sup> The glamorous epoch of tourist San Sebastian came to an abrupt end in 1936 with the start of the Spanish Civil War.

Of course, not everything was glorious. The plethora of tourist attractions actually converted much of the expansion zone into a tourist bubble. There was no place to accommodate the social diversity initially planned. Families who could not afford living in the third section moved to precarious areas outside of its limits, such as Antiguo, Egia, and Sagües.<sup>165</sup> This population found housing alternatives in neighborhoods where industrial activities considered unpleasant to the tourist city were located. In 1924, a new expansion plan was approved to deal with the uncontrolled urbanization of Gros and Ategorrieta-Ulia, situated close to Zurriola beach, between the Urumea River and Mount Ulia. In the first decades of the 20<sup>th</sup> century, an urban divide was already noticeable. On the one side, there was the tourist zone and on the other, unprivileged neighborhoods inhabited by the working classes.

### 6.1.3 A Basque City under the Francoist Regime

The dictator Franco decided to keep the Spanish royal family's tradition of spending the summer season in San Sebastian, visiting the city on innumerable occasions between 1939 and 1973.<sup>166</sup> Yet, Spain did not reopen its doors to international tourists until the end of the Second World War. These doors, however, were opened elsewhere and to

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Amusement Park, 1912; Francia promenade, 1920; La Zurriola bridge, 1921; the old Kursaal Palace, 1922; Aquarium and Real Nautical Club, 1929.

<sup>162</sup> The Spanish royal family occupied the Palace of Aiete initially, but later moved to the Miramar Palace, right in front of La Concha Bay.

<sup>163</sup> San Sebastian stood out, even though there were other coastal resorts of importance nearby, such as Santander in northern Spain, and Biarritz and Arcachon in southwestern France.

<sup>164</sup> For a specific analysis of San Sebastian in the wartime, see Walton (1996).

<sup>165</sup> Antiguo was an industrial area, Egia was situated by the railroad tracks, and Sagües started as an informal settlement at the foot of Mount Ulia. See, for instance, Nistal (2000).

<sup>166</sup> The city offered the Aiete Palace to be Franco's official summer residence.

welcome a very different public of visitors than those that the Basque resort had attracted before. Thanks to paid vacations for workers and innovations in transportation, such as flights operated by airline companies, travelling became affordable to important sectors of the middle classes of industrialized countries. This was particularly the case in France and England, that represented the majority of travelers seeking the 'sun and sea' tourist model offered by the beach resorts developed on Spain's Mediterranean coast, where the climatic conditions were much more favorable.

The rise of the tourism industry is one of the factors behind the economic growth experienced by Spain during the 1960s and early 1970s. But industrialization was the central element. This process resulted in an exponential rural exodus and left a legacy of uncontrolled expansion of the suburbs. Franco's regime implemented a new conception of urban planning, using the Master Plan as the main instrument. It was based on zoning mechanisms that were applied to the whole municipal perimeter, but were more indicative than normative. Combined with an authoritarian approach to the enforcement of the plan's norms, this instrument accelerated the expansion of the urbanized area. San Sebastian did not escape from this fate.<sup>167</sup> The city's first Master Plan was enacted in the 1960s when a market-driven process displaced the working classes from the expansion zone to neighborhoods such as Altza and Intxaurrondo, on the outskirts of the city. Investment was concentrated in the richest neighborhoods and tourist districts, while the construction of collective housing units was the main response for the working classes' needs.

The Francoist regime was also a period of systematic human rights violations. This process took on a very especial connotation in the context of Basque Country. The military dictatorship attempted to curb any manifestations of public discontentment. Demonstrations in San Sebastian organized by labor unions, clandestine political parties, the Basque nationalist movement, and other social organizations, were all violently repressed. Nonetheless, social mobilization was a major step leading to the democratization process in Spain. The cities were privileged settings for various urban social movements, which usually organized as neighborhood associations, cultural organizations, and gastronomical societies. Many of these organizations started to take

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<sup>167</sup> During Franco's dictatorship, the abusive licensing of construction projects and the decrees authorizing exceptions to the Master Plan were common administrative practices. For an analysis of the urbanization of the city during this period, see Calvo Sanchez (1983).

concrete actions to foment the Basque identity. In particular, some groups encouraged the use of the Basque language (*Euskara*) and the Basque flag (*Ikurrina*), which were both banned in public spaces by the dictatorial government.

#### *6.1.4 Confrontation, Democracy, and the Tourist Revival*

Franco's death in 1975 allowed for a transition to a new regime in Spain. This period was characterized by intense political agitation and an economic crisis that affected the tourism industry. Although repression continued, protesters more often took to the streets. Factions of the Basque nationalist movement were at the core of the political conflict. In 1976, ETA's first violent attack was registered in San Sebastian, the murder of the head of the Provincial Council of Gipuzkoa appointed by Franco. In the next year, the recently legalized Basque flag flew over Old Town's main plaza. And in 1979, the Basque nationalists won the first direct elections for City Council. This process of democratization culminated with the Spanish Constitution of 1978. It expressed a commitment to a series of civil, political, economic, and social rights, the parliamentary system of government, and the balance of power among the Spanish state, autonomous communities, provinces, and municipalities. The return to democratic life made it possible for Spain to become Member State of the European Union in the 1980s.

In this context of democratization, economic troubles, political mobilization, changes in the state apparatus, and Europeanization, the local governments regained the position of protagonists in the politics of space. In the 1990s, Spanish cities such as Barcelona and Bilbao became famous worldwide for advancing a set of innovative urban policies informed by the concept of strategic urban planning. Although in the case of San Sebastian the conversion from an industrial to a tourist city was not at stake, the city also followed a similar path by seeking to balance renewed faith in the tourist industry as an agent of economic development with investment to improve the living conditions of the suburbs. Efforts to redevelop urban spaces became pivotal to both strategies. Tourist attractions were built and revitalized, including the construction of avant-garde buildings and monuments by famous artists. At the same time, housing policies were redesigned, cultural and sport centers were created in the suburban neighborhoods, and the urban planning legislation was revised.

The current state of affairs, reflected in San Sebastian's bid for the title of European Capital of Culture, is the expression of old as much

as new challenges. The latter include the integration of immigrants arriving from Latin America, Africa, and Asia, the suspension of ETA's violent actions related to the Basque conflict, and the rise of a vision of city connected to the world at large, where tourism would be just one out of a series of activities related to the creative sector of the economy. This is visible in ongoing projects. Heavy investment is being made in new transportation infrastructure, such as the High Speed Train connecting the Basque capitals with Madrid and Paris and the expansion of the regional metro network. Also, new facilities related to the creative sector were launched. For example, the San Telmo museum was completely refurbished, the Basque Culinary Center will be inaugurated soon, and the Tabakalera Contemporary Audio-visual Culture Center should open to the public in 2015. These changes affect the area surrounding them, including the renovation of squares and streets.

### *6.1.5 Urban Space Produced*

A century and a half after its tourist takeoff, San Sebastian is a very different city from what the designers' of the first expansion plan imagined. Old Town and the Romantic Area are only one administrative neighborhood of the sixteen currently in the city. Almost the whole of the municipal perimeter was urbanized and urban tentacles were extended to contiguous municipalities such as Pasaia and Errenteria. San Sebastian now stands at the center of a transnational corridor, the Bayonne-San Sebastian Eurocity.<sup>168</sup> The urban problems that are faced today, however, cannot be explained without considering the consequences of the tourist model of city adopted in the mid-19th century and the effects of a four-decade military dictatorship. That is, the divide between the tourist zone and the non-tourist zone is due to a large extent to its heritage. Yet, this divide may be perpetuated as long as San Sebastian is devoted to a politics of space influenced by tourist representations of space as much as by the creative city model.

### *6.2 The Ideological Layer*

From the black-and-white postcards of the 19<sup>th</sup> century, to the videos that are now displayed on tourist websites, the appealing image of the town mirrored in the calm waters of La Concha Bay has been

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<sup>168</sup> In the Spanish extremity of this corridor, the next metropolitan area is Bilbao, while Bordeaux follows in the French extremity. See the analysis of Lozano Valencia (2007).

made famous worldwide through all types of promotional materials. The physical transformation of the urban environment occurred side by side the marketing process of San Sebastian as a tourist city. But the tourist representations have not reflected the contradictions that are visible in this contested urban space. In this section, by means of semiotic analysis of tourist materials and interviews with local authorities, I discuss public space regulation at the ideological layer. I start by describing the motivations and expectations of visitors who arrive in San Sebastian. I also identify the main tourist attractions and delineate the spatial boundaries of the tourist zone. Then I analyze the image of the city that has been marketed and how public spaces situated in the tourist zone have been represented by the tourism industry. Finally, I explore the intersections between representations of space and ideological norms.

### *6.2.1 Tourists' Motivations and Expectations*

Spain is among the top tourist destinations in Europe, while San Sebastian remains one of the country's most visited cities. The large number of visitors who arrive every year is to a large extent composed of domestic tourists, mainly from the regions of Madrid and Catalonia. These tourists usually stay for one weekend. France is the most common country of origin of the foreign tourists, due to the geographical proximity between the two countries and the freedom of movement granted to European Union's citizens within the Member States' internal borders. Although the French are frequent visitors, they usually do not stay overnight, spending only short periods of time in the city. A considerable number of visitors come from other European countries such as Italy, Germany, and the United Kingdom, as well as from other developed countries such as the United States and Canada. Although international tourists are more likely to extend their visits, in general they do not stay for more than a couple of days.<sup>169</sup>

Tourists' motivations are still mainly related to the city's visual landscape, the combination of the natural environment with the artificial environment. Tourists seek the views over La Concha Bay and they are interested in enjoying the beaches, promenades, and green hills. Over the last decades, cultural activities have become another powerful attraction. Along with the uniqueness of the Basque culture, an attraction in itself, the city offers a busy agenda of annual international events aimed to attract visitors. These events include the International

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<sup>169</sup> See interviews with local authorities (22-1 and 24-1).

Film Festival, Jazz Festival, and the San Sebastian Musical Fortnight. In addition, there is a smaller segment of tourists interested in sport events, which take place mostly around Anoeta Stadium.<sup>170</sup> More recently, gastronomy has become a major tourist draw. Mixing the traditional Basque cuisine with avant-garde cuisine, the city has become famous as a gastronomic center. Visitors now expect a lot from San Sebastian in terms of bars and restaurants, and are particularly interested in the typical Basque specialty, *pintxos*. As an evidence of the city's culinary reputation, tourist guides claim it has more restaurants with 'Michelin stars' per square meter than any other place in the world.<sup>171</sup>

Historically, cities on the Cantabrian coast such as Santander and Gijon have been important competitors in the tourist market, since they offer comparable tourist attractions. But the uniqueness of the Basque culture is an important competitive advantage. Over the last few years, due to the inauguration of the Guggenheim Museum and projects of urban redevelopment, Bilbao displaced San Sebastian from the position of main tourist destination in the Basque Country in number of tourist arrivals. Nevertheless, since tourists now are more likely to experience different places during the same trip, rather than spending time just in one destination, government officials tend to see neighboring Basque cities such as Bilbao, Pamplona, San Jean de Luce, and Biarritz more as partners than competitors in marketing Basque Country as a tourist destination.<sup>172</sup> As a local authority put it, "We can't be Cancun or Benidorm, resorts where you find more of the same. We have to focus on the tourist that is looking for authenticity. [...] For us, the attractive is the authentic."<sup>173</sup> San Sebastian is seeking a tourism model that focuses on the quality of the cultural experience, rather than the 'sun and sea' tourist model followed by most resort cities.

### 6.2.2 The Tourist Zone and its Attractions

It is possible to identify San Sebastian's tourist attractions by analyzing tourist guides, brochures, and websites as markers. Table 17 provides a list of sites marked as tourist attractions and classifies them

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<sup>170</sup> The Anoeta Stadium is the home of the football club Real Sociedad, which won the Spanish First Division twice. It is the main venue of a large sport complex, where basketball, rugby, swimming, bicycling, and many other kinds of sport competitions take place.

<sup>171</sup> This qualification is awarded by the Michelin Red Guide, a well-known European tourist guide focusing on hotel and restaurants.

<sup>172</sup> See interviews with local authorities (18-2 and 22-1).

<sup>173</sup> Interview with a local authority (18-5), my translation.



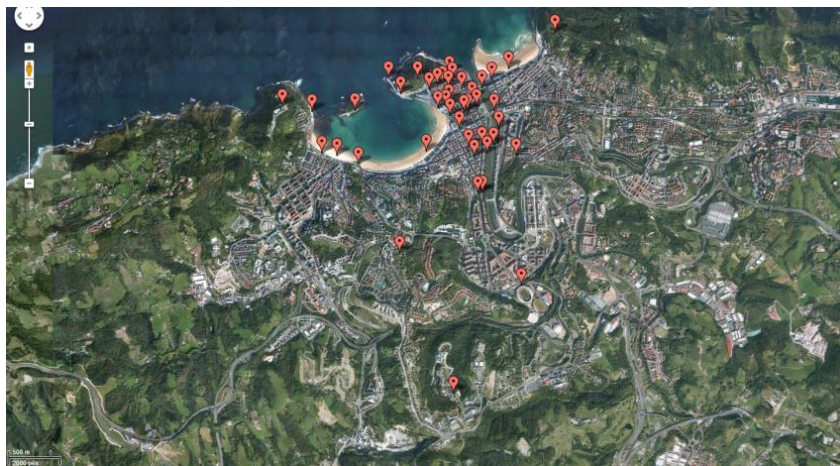
into natural, historical, and artificial attractions. The first tourist district is Old Town, which more or less corresponds to the ancient walled perimeter at the foot of Mount Urgull. The second is the Romantic Area, the zone of urban expansion designed in the mid-19<sup>th</sup> century that now is downtown. The third is the Maritime district, comprising a set of tourist attractions situated along the coastline, from Mount Igeldo to Mount Ulia, in particular Ondarreta, La Concha, and Zurriola beaches. The tourist zone embraces three linked districts, as the satellite image of the urban perimeter illustrates, with the geographical location of the tourist attractions (Figure 21). There are a few sites marked as tourist attractions dispersed across the city, such as the Aieta Park and the Anoeta Stadium, while places like the Rezola Industrial Museum and the Miramon Science Park are situated in more isolated areas.

Districts	Attractions	Nat.	Hist.	Art.	Tg4	Tg5	Tg6	Tw3	Tw4
Old Town <i>Parte Vieja</i>	Mount Urgull and La Motta Castle Museum <i>Monte Urgull y Castillo de la Motta Museo</i>	•			•	•	•	•	•
	San Telmo Museum <i>Museo San Telmo</i>		•			•	•	•	
	La Bretxa shopping mall <i>Mercado de La Bretxa</i>			•		•			•
	Fermin Calbeton and August 31 <sup>st</sup> streets <i>Calles Fermin Calbetón y 31 de Agosto</i>		•			•	•		
	Constitution Plaza <i>Plaza de la Constitución</i>		•			•	•	•	
	San Vicente church and Santa Maria Basilica <i>Iglesia de San Vicente and Basílica de Santa María</i>		•			•	•	•	
Romantic Area <i>Área Romántica</i>	Alameda del Boulevard <i>Alameda del Boulevard</i>			•		•	•	•	
	City Hall and Alderdi-Eder Gardens <i>Ayuntamiento y Jardines de Alderdi-Eder</i>			•		•	•	•	
	Gipuzkoa Plaza and Gipuzkoa Palace <i>Plaza de Gipuzkoa y Palacio de la Diputación</i>			•		•	•	•	
	Plaza Centenario and Araba Park <i>Plaza Centenario y Parque de Araba</i>			•		•			
	Hotel Maria Cristina and Victoria Eugenia Theater <i>Hotel Maria Cristina y Teatro Victoria Eugenia</i>			•		•	•	•	
	Buen Pastor Cathedral <i>Catedral del Buen Pastor</i>			•		•	•	•	
	Koldo Mixelena Cultural Center <i>Centro Cultural Koldo Mixelena</i>			•		•	•	•	
	La Libertad Avenue <i>Avenida de la Libertad</i>			•		•	•		
	Gernika Promenade, Prim Street, Bilbao Plaza <i>Paseo de Guernika, Calle Prim, Plaza de Bilbao</i>			•		•			
	Urumea River <i>Río Urumea</i>	•			•	•	•		
	Cristina Enea Park <i>Parque de Cristina Enea</i>			•		•	•	•	
	Francia Promenade and bridges over the river <i>Paseo de Francia y puentes sobre el Río Urumea</i>			•		•			
Maritime <i>Marítimo</i>	Mount Ulia <i>Monte Ulia</i>	•				•	•	•	
	Zurriola beach and promenade <i>Playa de Zurriola Paseo de Zurriola</i>	•			•	•	•	•	•

	Kursaal Congress Palace <i>Palacio de Congresos Kursaal</i>			•		•	•	•	
	Harbor, Nautical Club, and Fishing Village <i>Puerto, Club Náutico y Villa de Pescadores</i>	•				•	•	•	•
	Aquarium and Naval Museum <i>Acuario y Museo Naval</i>			•	•	•	•	•	•
	Paseo Nuevo promenade <i>Paseo Nuevo</i>	•				•	•	•	
	La Concha beach, promenade, and La Perla spa <i>Playa de la Concha y Paseo de la Concha, La Perla</i>	•			•	•	•	•	•
	Santa Clara Island <i>Isla de Santa Clara</i>	•			•	•	•	•	
	Miramar Palace and gardens <i>Jardines del Palacio Miramar</i>			•		•	•	•	•
	Ondarreta beach, promenade and gardens <i>Playa Ondarreta y Paseo de Ondarreta</i>	•			•	•	•	•	•
	Peine del Viento sculptures <i>Peine del Viento</i>			•		•	•	•	
	Mount Igeldo, Amusement Park, and Funicular <i>Monte Igeldo y su Parque de Diversiones y Funicular</i>	•			•	•	•	•	•
other attractions	Miramón Science Park <i>Miramón Parque de la Ciencia</i>			•		•	•	•	
	Rezola Industrial Museum <i>Museo Cemento Rezola</i>		•			•	•	•	
	Anoeta Stadium and Real Sociedad Museum <i>Estadio de Anoeta Museo de la Real Sociedad</i>			•		•	•		
	Aiete Park and Palace <i>Parque de Aiete y su Palacio</i>		•			•	•	•	

**Table 17 – Tourist districts and attractions – San Sebastian**  
**Source: elaborated by the author, based on tourist guidebooks and websites**

Most tourist attractions situated in the Romantic Area and Maritime district were developed for this purpose before the Spanish Civil War. Decades later, the production of urban spaces for attracting visitors still remains to a large extent centralized in the same zone. The main change is that Old Town has also been turned into a tourist district, since the valorization of historical buildings has become a trend in the tourist market. Over the past decades, the local government invested heavily in the production of tourist attractions. First, old sites originally designed as artificial attractions were rehabilitated (for instance, the renovation of the Alameda del Boulevard and Aquarium). Second, the exploitation of the tourist potential of natural attractions was considerably intensified (for example, the enlargement of Zurriola beach). Third, entirely new artificial attractions were opened to the public (the new Kursaal Congress Palace, and Cristina Enea Park). Fourth, some of the most traditional spaces were converted into historical attractions (Constitution Plaza, Harbor, and Fishing Village).



**Figure 21 – Tourist attractions – San Sebastian**

Source: image adapted from Google Maps, 2012; based on tourist materials

The tourist attractions that will be launched in the near future are also situated in the tourist zone, which illustrates the future tendencies of the current politics of space. This is the case of the Tabakalera Audio-visual Culture Center, which will occupy a deactivated industrial building located near Cristina Enea Park. It is also the case of the Monpas footbridge, which is a project planned to be implemented along the coast at the foot of Mount Ulia. There are also discussions occurring about the creation of a sport harbor and a fluvial park along the shore of the Urumea River. The tourist zone was the strongest argument of San Sebastian's bid to receive the title of European Capital of Culture. This set of tourist attractions and the 'approved for tourists' label that this cultural event presupposes are essential to the image of a creative city that the municipal government is seeking to market. Nevertheless, important as it certainly is, the tourist zone is nothing more than a small part of San Sebastian's urban space.

### *6.2.3 The Image of the City*

The tourist maps of San Sebastian look very similar and provide almost the same kind of information (see Figures 22, 23, and 24), in spite of the diversity of sizes and scales. Yet they do not provide a full picture of the city. The space that is represented on the tourist maps coincides with the tourist zone. The focus of the images is oriented towards the tourist bubble of the city, situated in the Center, Gros, and

Antiguo neighborhoods. Various neighborhoods of unequivocal importance like Altza, Miracruz-Bidebieta, and Itxaurrondo are excluded from the representation. In addition, non-tourist neighborhoods partly comprised by the representations, such as Egia or Ategorrieta-Ulia, do not receive the same detailed drawing as the tourist districts. For example, the names of some streets and squares are clearly missing. In fact, many of San Sebastian's public spaces are left off the tourist maps, since there is no sign indicating their actual existence. In the words of a government official, "Tourists don't know that a neighborhood called Intxaurrondo exists, they neither know about the biggest neighborhood of the city, which is Altza, nor about the city of Pasaia, which is right beside."<sup>174</sup>

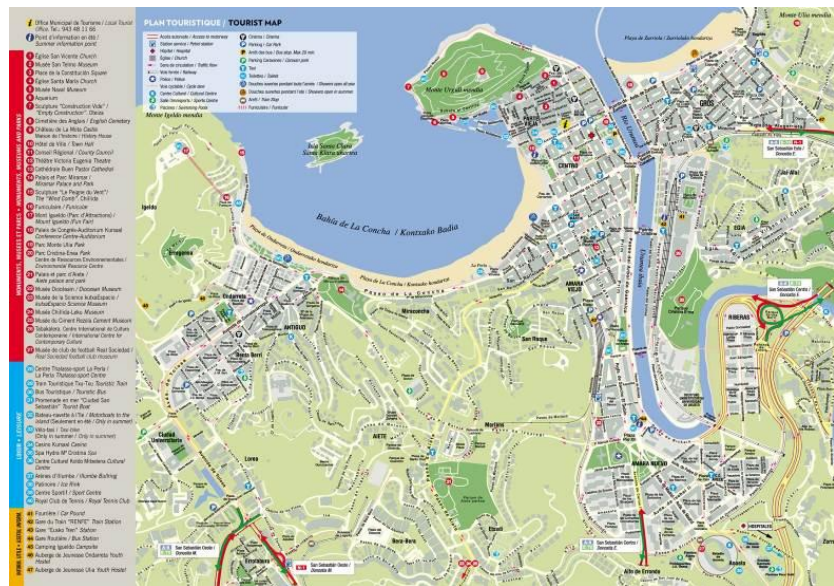
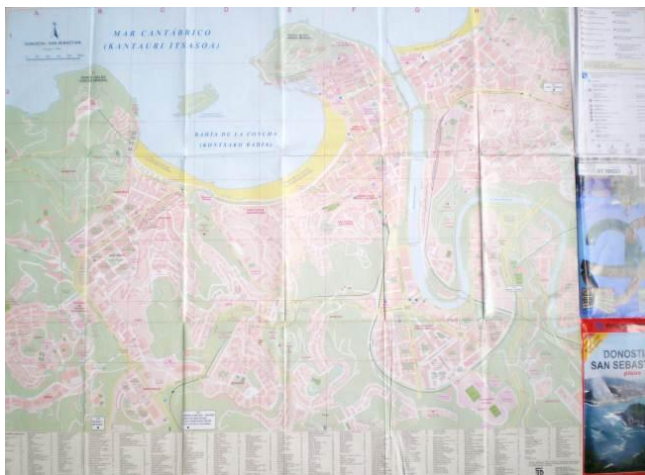
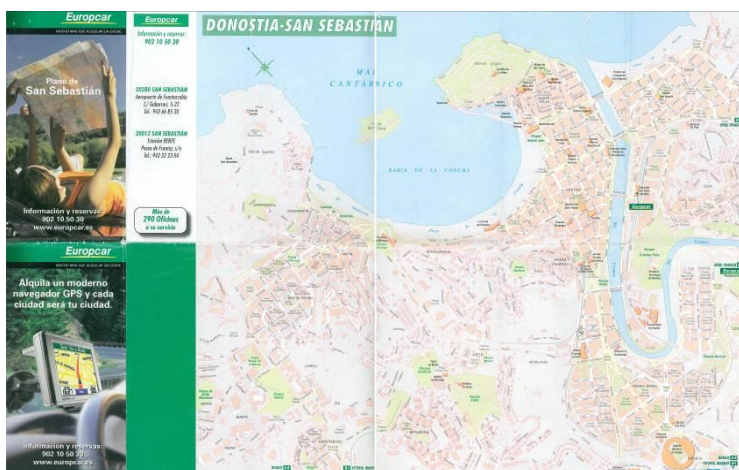


Figure 22 - Tourist map of San Sebastian (Tm4)  
Source: printed material, author's collection

<sup>174</sup> Interview with a local authority (17-4), my translation.



**Figure 23 – Tourist map of San Sebastian (Tm5)**  
**Source: printed material, author's collection**

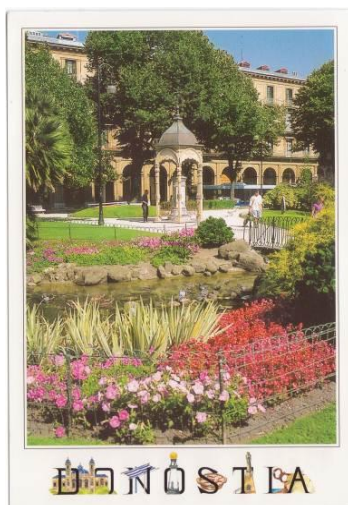


**Figure 24 – Tourist map of San Sebastian (Tm6)**  
**Source: printed material, author's collection**

#### 6.2.4 The Image of Public Spaces

Tourist postcards also depict the places situated in the tourist zone. The collection of postcards selected for analysis includes images picturing public spaces of the Romantic Area (Figures 26, 2, and 27),

Old Town (Figures 28, 20, and 30), and Maritime district (Figures 31, 32, and 33). A series of relationships among the signifieds, signifiers, and referents can be identified in the images. For instance, in Figure 30 the Basque flag is an image's block related to an abstract experience, the idea of cultural authenticity. It refers to actual objects, which are the Basque flags proudly displayed by city residents on the balconies in Old Town. The sidewalks with the hexagonal grey and white stones and well-painted benches, which appear as signifiers in Figure 27, are related to the signified clean and comfortable promenades, and have as their referents the high level of maintenance of San Sebastian's streets. Every attempt of interpreting the imagery meaning is very subjective, but any potential buyer of postcards would recognize some features. The colorful gardens, design of buildings and monuments, people and their actions are some of the elements portrayed that are likely to induce sensations of beauty, cleanliness, safety, and peacefulness. They evoke the feeling that the experience of being part of the landscape is pleasurable.



**Figure 25 – Postcard of the Romantic Area (Tp11)**  
**Source: printed material, author's collection**





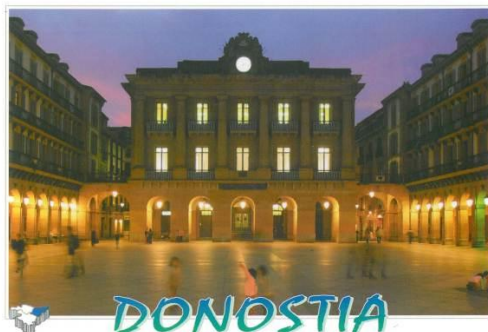
**Figure 26 – Postcard of the Romantic Area (Tp13)**  
Source: printed material, author's collection



**Figure 27 – Postcard of the Romantic Area (Tp18)**  
Source: printed material, author's collection



**Figure 28 – Postcard of Old Town (Tp12)**  
Source: printed material, author's collection



**Figure 29 – Postcard of Old Town (Tp20)**  
**Source: printed material, author's collection**



*San Sebastián - Donostia*

**Figure 30 – Postcard of Old Town (Tp15)**  
**Source: printed material, author's collection**



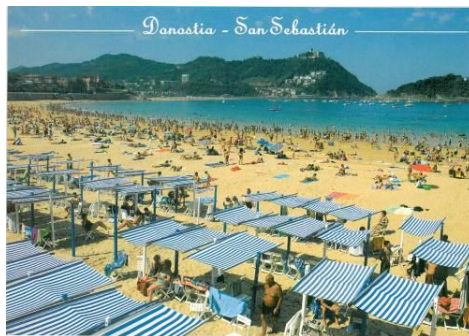
**Figure 31 – Postcard of the Maritime district (Tp14)**  
**Source: printed material, author's collection**





**Figure 32 – Postcards of the Maritime district (Tp16 and Tp17)**

**Source: printed material, author's collection**



**Figure 33 – Postcard of the Maritime district (Tp19)**

**Source: printed material, author's collection**

There are signifiers whose signifieds would not be appreciated by the majority of the visitors interested in San Sebastian. For instance, the image of people carrying banners on the streets would possibly indicate the abstract experience of political confrontation, with the political activism in the Basque Country as its referent. It is not difficult to realize the reasons why postcard makers would prefer to exclude signs related to the Basque conflict from representations of San Sebastian. Indeed, the postcards set apart signs related to political activism from the Basque left-wing nationalist movements, generically known as the *izquierda abertzale*. The Basque question does not fit well with representations of space that make public spaces look like peaceful places where dissent and social unrest cannot be found. Even if political agitation may occasionally be regarded as an attraction for a few visitors, the fear of terrorist attacks, street violence, and abusive policing

more often than not induce tourists to avoid destinations perceived as dangerous.<sup>175</sup>

### *6.2.5 Ideological Norms and the Tourism Industry*

The tourism industry is no longer the most important sector of the local economy, although it still plays a crucial role in San Sebastian's image. By marketing the image of a high quality tourist destination, the city not only responds to the tourism industry's aspirations, but also increases its attractiveness for investors in the creative sector of the economy. For this reason, government officials highlight the importance of attracting "[...] quality tourism ... financially speaking".<sup>176</sup> They express concerns about mass tourism at the same time. For instance, an interviewee noted that, "If tourism grows too much [...], the city's way of life is over. The case of Venice, for example, is well known. It was converted into a theme park."<sup>177</sup> He continued, "If the tourist demand is too big, the prices increase, parking becomes a problem, walking on the streets becomes difficult. Moreover, the equilibrium of the relationships in the everyday places, where people meet each other, is affected".<sup>178</sup>

Local authorities believe that financial and non-financial resources must prioritize public spaces situated in the tourist zone, and that privileges must be granted to the actions and discourses most profitable to the tourism industry. As a government official explained, "Public spaces are incredibly important because they are the first thing a tourist sees. They generate the greatest perception of the city, starting from what is most basic and immediate such as the cleaning of the streets, which is something absolutely important and prominent. [...] The second part is a little bit about the management of these spaces, the ordered use of public spaces."<sup>179</sup> Nonetheless, local authorities believe that, "We cannot forget that we have to respond first and foremost to the citizens of San Sebastian's needs, while at the same time not neglecting what tourists find attractive and the potential of activities that foment tourism."<sup>180</sup> In the case of San Sebastian, therefore, the ideological norms of the tourist city have a more ambiguous character and tend to

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<sup>175</sup> See interviews with local authorities (17-4, (18-7, 20-1, and 26-1).

<sup>176</sup> Interview with a local authority (20-6), my translation.

<sup>177</sup> Interview with a local authority (19-1), my translation.

<sup>178</sup> Interview with a local authority (19-2), my translation.

<sup>179</sup> Interview with a local authority (22-3), my translation.

<sup>180</sup> Interview with a local authority (25-1), my translation.

be less influential, as a consequence of the tensions between the residents' and the tourism industry' interests.

### ***6.3 The Legal-institutional Layer***

Making the spatial practice conform to the marketed image of San Sebastian requires a set of legal norms to guide the actions of the public administration agencies. In this section, based on empirical evidence from documents and interviews, I discuss the norms regulating public spaces that are found at the legal-institutional layer. First, I describe the policy-making context within which the politics of space are conceived. Next, I scrutinize planning documents and statutory texts at different governmental levels in order to identify the body of legal norms governing the city. Then I analyze public space management and the organization of the public administration agencies' everyday actions. This section ends with a discussion of the intersections between tourist representations of space and legal norms.

#### ***6.3.1 The Policy-making Context***

The return to democracy in Spain strengthened federalism and decentralized power, even if it did not guarantee the right to self-determination to Basque Country. Since the 1978 Constitution came into force, the Government of the Autonomous Community of the Basque Country has assumed crucial functions, such as being responsible for the *Ertzaintza*, the police force of the Basque Country. The Provincial Council of Gipuzkoa took responsibility for financing infrastructure projects and welfare services. The City Council was increasingly granted more powers, financial resources, and a higher degree of autonomy to formulate urban policies. Today the main urban development decisions are made at the municipal level, but large-scale interventions may occasionally require joint efforts from different government levels.

Political parties are now key actors in the politics of space, since the municipal government is chosen and supported by the parliamentary coalition that has the majority in the City Council. Following the victory of Jesús María Alkain in the 1979 elections for the City Council, another politician from Basque Nationalist Party (PNV), Ramón Labayen, became mayor in 1983. The next election in 1987 was won by Basque Solidarity (EA), whose leader Xabier Albiztur was named mayor. For a period of twenty years, between 1991 and 2011, Odón Elorza, member

of Spanish Socialist Workers' Party (PSOE), was the head of the municipal government. Elorza won the 1999, 2003, and 2007 elections, but became mayor in 1991 and 1995 due to formal agreements promoted between the PNV and PSOE. In 1991, Albiztur won for the second time, but he was not re-elected by the city councilors. In 1995 it was Jayme Mayor Oreja, a member of People's Party (PP), who narrowly won after ETA's murdered of the previous PP candidate Gregorio Ordoñez. The *Bildu* coalition, which consists of the political parties of the *izquierda abertzale*, eventually defeated Elorza in the 2011 elections, and Juan Carlos Izaguirre was appointed mayor.

Municipal government action relies on an efficient bureaucracy. Municipal workers have stable positions and sufficient resources to carry out long-term policies and planning efforts. In addition, government officials are aware of the fact that the decisions they make are subjected to judicial scrutiny. Administrative courts play a major role in solving conflicts related to the exercise of public power. The Spanish Judiciary is divided into different territorial levels. The city of San Sebastian is a judicial district, which is the basic unit of the system, where legal procedures typically begin. Cases may be appealed to the High Court of the Basque Country (TSJPV). Finally, there is the Supreme Court of Spain (STS), which is the country's highest judiciary body. Its rulings cannot be appealed, except to the Spanish Constitutional Court (STC), which is not part of the Judiciary. It is an independent branch of the Spanish state that has the power to declare legal norms unconstitutional.

### 6.3.2 Governing the City

More power in the hands of local authorities, regular elections, and the support of a highly qualified staff resulted in an emphasis on planning efforts in San Sebastian. In 1995, a new Master Plan was approved. Since then, the land-use legislation has been revised regularly and rules have been enforced by local authorities much more carefully. In addition to the *City's Master Plan*, strategic urban planning mechanisms started to be used. "The concept that is more accurate than pure and hard urban planning is the idea of having a comprehensive discussion about what city model is desirable, taking into consideration the characteristics of the city,"<sup>181</sup> a government official explained. "For a strategic plan to work, everyone's participation is required. Not all

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<sup>181</sup> Interview with a local authority (19-1), my translation.

parties accept everything as a whole, but we try to find points of agreement. It is not a normative plan; the implementation does not depend on an obligation. It arises from taking part in the process, in having made joint decisions with others. The value is intangible, because in this process people build a city model in their minds. This is more important than the final document that is approved,”<sup>182</sup> he added.

The *2020 Strategic Plan*, a document that was released in 2011, clearly proposes a change in San Sebastian’s model of urban development, something that was already sketched in the first strategic plan published in 2004. The key-idea synthesizing the new model for the city is the concept of a creative city. This concept is understood as a new emphasis on the economic potential of urban activities involving innovation, knowledge, and technology. Undoubtedly, the concept of a creative city is also a clear attempt to react against the severe economic crisis that hit Europe at large, which had particularly negative effects on Spain’s industrial economy. In the concept of a creative city, the role of tourism is twofold. First, the tourism industry is one of the traditional sectors included in the larger concept of cultural industry. Second, tourism is a key activity because it is crucial to the promotion of the city image. The quality of life projected to the visitors and promised by the city to newcomers, becomes a key asset in attracting capital and a qualified workforce to the creative sectors of the economy.

Two main points of criticism have been raised against the use of strategic urban planning mechanisms in San Sebastian. First, a number of local authorities argue that “The city’s strategic projects have been too centralized; the projects for the city and for its neighborhoods have been kept apart.”<sup>183</sup> Second, the emphasis on strategic planning has not necessarily created more opportunities for the citizens to take part in the decision-making process. As a local politician commented, “We talk effusively about participation, but in practice we do little to make it happen.”<sup>184</sup> The permanent mechanisms of participation, such as the city advisory board, are more formal in character and have their agenda controlled by the municipal government. That is, often they are used simply as means to legitimize decisions that have already been made by the government. Occasionally, local authorities also open public consultations about interventions in public spaces, like in the case of square redevelopment projects.

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<sup>182</sup> Interview with a local authority (19-4), my translation.

<sup>183</sup> Interview with a local authority (21-3), my translation.

<sup>184</sup> Interview with a local authority (17-3), my translation.

### 6.3.3 Public Space Management and Zoning Districts

The quest for ordered public spaces entered San Sebastian's political agenda in the last decade. The legislation from the democratic period already included the *Street Vending Ordinance*, a statute from the 1980s, and the *Street Musicians Decree*, issued by the mayor in the 1990s. Both adopted spatial tactics to regulate public space users, with the former defining a zoning district for street vending and the latter minimum distances between musicians. In 2004, however, a new statute was approved, the *Civic Responsibility and Protection of the Urban Landscape Ordinance*. A series of behaviors were outlawed. The list is large, with a few examples given in Table 18. Wrongdoers can be asked to move or are fined when the Municipal Police pass by. Fines are from 50 to 200 €; and in case of repetitive or serious offences to the norms of conduct, from 200 to 500 €. <sup>185</sup> This statutory text was passed with the unanimous support of the City Council. <sup>186</sup> Another statutory text, the *Beaches Ordinance*, was approved by the City Council in 2007, establishing norms for the use of Ondarreta, La Concha, and Zurriola beaches.

outlawed behavior	legal provision
Making nuisance noise in the streets at night or when leaving from nocturnal recreation establishments.	section 8
Use public water fountains for bathing, washing, and cleaning.	section 12
Playing games or sports in the streets with objects and instruments that can cause damages to persons or goods, like footballs, skates or boomerangs, except in authorized places.	section 13
Camping in parks and public gardens.	sections 14
Being in parks after the regular closing time.	
Drunkenness and public drinking that perturb other users of public spaces.	section 15
Begging by minors.	section 16
Aggressive, menacing, or annoying panhandling.	
Unlicensed street vending and peddling goods from door to door.	
Car washing in public spaces	section 19
Public urination, defecation, and spitting.	
Throwing away rubbish in the streets.	
Manipulation and selection of materials that are deposited in trash containers and cans.	section 20

**Table 18 – Outlawed behaviors**

**Source: *Civic Responsibility and Protection of the Urban Landscape Ordinance*, 2004**

Local authorities claim that the *Civic Responsibility and Protection of the Urban Landscape Ordinance* and the *Beaches Ordinance* were more a response to residents' demands than to the

<sup>185</sup> Sections 49 and 50, *Civic Responsibility and Protection of the Urban Landscape Ordinance*.

<sup>186</sup> See interviews with local authorities (17-5, 20-3).

tourism industry's demands. Some think that they are very important tools, arguing that a more strict approach to problems such as vandalism, graffiti, public drinking, panhandling, and littering in plazas, parks, and beaches was needed to avoid damages to the city's tourist image, and also because it cannot afford increasing costs with maintenance services. Others think that the city has gone too far. "Every time that a certain behavior is seen as annoying to someone, it is regulated, limited. Day after day we are becoming more intolerant about living together. Everything is overregulated,"<sup>187</sup> a government official said. Another added that, "Public space is taken by politics. [...] There is no problem about banners and things alike, public spaces are also spaces of expression. But in order to fight localized and sectarian uses of public space San Sebastian has been regulating their use in a way that there is no room for things to happen. If you look around, the city is clean, impeccable, perhaps too much so. Everything is regulated excessively, almost everything is prohibited."<sup>188</sup>

The *Civic Responsibility and Protection of the Urban Landscape Ordinance* and the *Beaches Ordinance* not only legitimate repressive measures taken by local authorities, but also provide concrete tools for sanctioning what is perceived as disorder. Obvious targets include social groups such as teenagers who drink in public, panhandlers, the homeless, street vendors, and political activists. Nevertheless, unlike the *Street Vending Ordinance* and the *Street Musicians Decree*, these statutes did not create any kind of spatial zoning mechanism concerning the management of public spaces. The gap between what is written in the statutory texts and the way they are enforced allows a margin of maneuver through which police officers can assure that certain individuals will be targeted rather than random misbehaved tourists. Moreover, it makes it possible to select the public spaces where behavior will be more strictly controlled.

#### 6.3.4 Public Administration Agencies and their Jurisdictions

There are different public administration agencies that perform tasks related to the management of public spaces in San Sebastian. The Municipal Police is the main agency responsible for enforcing legal norms that sanction behaviors that are perceived as disorder. However, the Department of Interior of the Basque Government is the agency

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<sup>187</sup> Interview with a local authority (17-3), my translation.

<sup>188</sup> Interview with a local authority (21-2), my translation.

responsible for deciding about the norms to be observed by the organizers of demonstrations. The *Ertzaintza*, which is under the command of the Department of Interior of the Basque Government, is the agency responsible for enforcing these rules. In respect to the promotion of public uses, relevant tasks are performed by various agencies administrated by the municipal government.

The public administration agencies involved in public space management have jurisdiction over the entire municipality. But the fact that the city is at the center of a metropolitan corridor must be taken into consideration. Neighboring municipalities such as Pasaia and Errentería are entirely different jurisdictional spaces that are outside of the scope of San Sebastian's municipal government. This is behind some curious situations involving spatial practice. For instance, street vending may be treated differently on the two sidewalks of Azkuene Street, which is located right in the between of the municipalities of San Sebastian and Pasaia. Since the agents of San Sebastian's Municipal Police do not have jurisdiction beyond the boundaries of their own municipality, they cannot fine street vendors who are working on the other side of the street or ask them to move.

#### *6.3.5 Legal Norms and the State*

Legal norms regulating public spaces reflect unresolved tensions between residents and the tourism industry's interests, with the former often prevailing over the latter. In the words of a government official, "On the one hand, you have a city with a tourist vocation and therefore you have to bear in mind this aspect when regulating land uses. On the other hand, you have to make it compatible with the demands and aspirations of thousands of residents who inhabit the city on a permanent basis. Sometimes contradictions may arise between the interests of the inhabitants of the city and its tourist vocation. Over the last years, when this happened, almost always the interests of the inhabitants prevailed. And this is normal, because they are responsible for electing the government, not the visitors."<sup>189</sup> Nevertheless, representations of space delimiting whether or not a given public space belongs to the tourist zone have an unequivocal impact in the enforcement and implementation of legal norms. This aspect becomes more evident when everyday life conflicts over public spaces are considered.

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<sup>189</sup> Interview with a local authority (18-6), my translation.



## 6.4 The Concretized Relationships Layer

In this section, I explore public space regulation at the layer of the concretized relationships, grounding my analysis on data collected through observations, newspaper reports, and interviews. In addition to the discussion about the interrelations among ideological norms, legal norms, the action of the state at the local level, and the characteristics of the spatial practice in San Sebastian, I also seek to understand whether or not social norms matter for the politics of space. I start my analysis by looking at conflicts over public spaces concerning political activism and street vending. After that, I turn my attention to conflicts regarding street maintenance and square redevelopment projects. Although this description is not exhaustive, I hope to provide enough elements to illustrate the differences in terms of regulation between public spaces situated in the tourist zone and those in the non-tourist zone.

### 6.4.1 Political Activism

The scene is still quite common in San Sebastian: groups of protesters, hundreds or sometimes thousands, gather in Old Town; leaving from Alameda del Boulevard, they march through the streets of the Romantic Area. Typically, they carry Basque flags, deliver pamphlets in the Basque language to passers-by, and make speeches in order to spread political messages to residents, visitors, and the press. Among the protesters, one can see women, men, the elderly and even children. Even when demonstrating across the streets peacefully, protesters are subject to stringent police surveillance. The activists are usually escorted by Municipal Police motorcycles and *Ertzaintza* vans. *Ertzaintza* also uses a helicopter to oversee massive demonstrations and its anti-riot agents, armed with batons, shields, tear gas, and rubber bullet rifles, observe the passage of the protesters from key spots. For a brief time, from a few minutes to a couple of hours, the routine of passing cars, pedestrians, and tourists is suspended and gives way to a very different set of actions and discourses that temporarily appropriate public spaces.

Behind this everyday life scene there is a bureaucratic ritual. According to the 1978 Spanish Constitution, “The right to peaceful unarmed assembly is granted. The exercise of this right shall not require prior authorization.”<sup>190</sup> But the Constitution also states that “In the case

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<sup>190</sup> Section 21.1 of the *Spanish Constitution of 1978*, my translation.

of meetings in public places and demonstrations, prior notification shall be given to the authorities, who can only forbid them when there are well founded grounds to expect a breach of public order, involving danger to persons or property.”<sup>191</sup> Such constitutional right is further detailed in the *Peaceful Assembly Act*, which states that authorities, in the case of an expected breach of public order, can prohibit the rally or modify its date, duration, place, or itinerary.<sup>192</sup> Nevertheless, over the past decades the STC has advanced a jurisprudential doctrine arguing that public spaces should be regarded not simply as spaces of circulation but also as spaces of participation.<sup>193</sup> As a result, courts started to impose judicial constraints in relation to administrative measures that are taken on the grounds of preventing the breach of public order.

This bureaucratic ritual for protesting is occasionally contested. One episode from 2007 illustrates its limits. In that year, the Spanish extreme right-wing organization La Falange notified the Department of Interior of the Basque Government about its intention to promote a demonstration to celebrate the ‘national unity of Spain’ on Alameda del Boulevard. Government officials were aware of the fact that a demonstration of this kind, held in San Sebastian’s central public space, would be regarded as a provoking act by Basques in general and groups of the *izquierda abertzale* in particular. Certainly, it would cause a strong reaction from antagonist movements. Considering the content of the demonstration and the way it was planned, it may be said that La Falange’s aim was precisely to generate a fierce conflict. The Department of Interior however did not decide to outlaw the demonstration. Instead, the Basque authorities made use of spatial tactics to manage it. They decided that the demonstration should take place somewhere else, in the Plaza Aita Donostia, situated in front of the Anoeta Stadium, an area relatively far from downtown.

The administrative resolution displacing the demonstration was explicitly justified on the grounds of the spatial characteristics of Alameda del Boulevard. According to the Department of Interior, this is “a public space occupied by families and people of all ages, with terraces used by bars and cafeterias where there is a vast agglomeration of people, especially during the holidays.”<sup>194</sup> Eventual conflicts between opposite groups of activists were not desirable in such a tourist space,

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<sup>191</sup> Section 21.2 of the *Spanish Constitution of 1978*, my translation.

<sup>192</sup> See Section 10, *Peaceful Assembly Act*.

<sup>193</sup> See, for instance, the *STC Sentence 66/1995*.

<sup>194</sup> Quoted in the *TJSPV Sentence 582/2007*, my translation.

but apparently it would be less problematic if they were displaced to the outskirts of the tourist zone and kept hidden from the visitors' sight. Nevertheless, La Falange successfully challenged the Department of Interior's resolution. The TSJPV invalidated the administrative decision, finding it to contradict the interpretation given by STC to the right to peaceful assembly. Consequently, the Basque Government was required to assure adequate conditions for the promotion of the demonstration on Alameda del Boulevard.

The resistance strategy chosen by the *izquierda abertzale* was the promotion of an 'anti-fascist festival' on Alameda del Boulevard. Such a counter-demonstration is against the *Peaceful Assembly Act*, since it involves a public meeting held at the same place and time in which another demonstration is already planned to occur. In addition, the promoters did not notify the authorities. On the day of the anti-fascist festival, thousands of Basques gathered at Alameda del Boulevard to attend the event. The *Ertzaintza* came to disperse the pacific but nonetheless illegal counter-demonstration by force. But the activists refused to obey, and resisted against the police force used. As a result, an open confrontation between police forces and activists started on the streets of the Romantic Area. Members of La Falange who arrived in San Sebastian from different parts of Spain for the demonstration did not reach Alameda del Boulevard. They eventually decided to give up, since the police forces were unable to contain the impressive uprising of the *izquierda abertzale*.<sup>195</sup>

In everyday life, the political activism of the *izquierda abertzale* in San Sebastian takes place in much less dramatic ways. The following sequence of photos, taken during the observation sessions, shows some visible discourses around the Basque conflict found in public spaces. Figure 34 shows parts of monuments painted over with the colors of the Spanish and French flags. The political meaning of the discourse is clear, since through the graffiti the Maria Cristina Bridge and French Promenade are associated with the idea that the space of the city reveals in itself how old and large is the domination exercised by Spain and France over the Basque Country. The figure also shows images from the streets related to the imprisonment of Basques accused of membership or collaboration with ETA. The banners on the Alameda del Boulevard and in front of San Vicente Church denounce the suffering of two sick prisoners, while identical flags in the balconies of buildings surrounding

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<sup>195</sup> See the newspaper reports *El Diario Vasco*, 13 Oct. 2007; 14 Oct. 2007; *Gara*, 13 Oct. 2007.

the Constitution Plaza call for the return to *Euskal Herria* of the prisoners held in custody elsewhere in Spain and France.



Figure 34 – Posters, banners, and graffiti about the Basque conflict  
Source: photographed by the author, 2008.

Banners, posters, and graffiti are means to communicate political discourses largely employed by the *izquierda abertzale*. Nevertheless, the visibility of this kind of intervention in the tourist zone faces legal obstacles. Since the *Civic Responsibility and Protection of the Urban Landscape Ordinance* came into force, rigid norms for installing such kind of material in public spaces have to be observed. Placing posters, banners, flags, adhesives, paintings, graffiti or any other kind of advertisement, including political propaganda, on the facades of private and public buildings, street furniture, trees, walls, tunnels, construction sites, underground passages, and other similar places, is not allowed, unless the interventions are previously authorized by the municipal authorities for a celebration of relevant cultural, sporting, or artistic events. In the case of buildings that are deemed as part of the historical or artistic heritage, interventions of this kind are by no means allowed.<sup>196</sup>

The norms of the *Civic Responsibility and Protection of the Urban Landscape Ordinance* have made placing posters, banners, flags,

<sup>196</sup> See Sections 42.2, 43.1, 44.1, 45, *Civic Responsibility and Protection of the Urban Landscape Ordinance*.

stickers, and graffiti illicit behavior. Accordingly, political propaganda was restricted to the period of the electoral campaigns, when the city makes room available in public spaces to display material of this sort. Wrongdoers can be fined by Municipal Police agents and unauthorized interventions can be immediately removed by the municipal services at the expenses of the responsible party.<sup>197</sup> This statute reinforced the claims about the need of preserving the image of the city, its cleanliness and beauty from disturbing elements. Nevertheless, there is some degree of tolerance related to the enforcement of these legal norms. According to a government official, in these cases the social norm informing Municipal Police action is “Not to create a problem that is bigger than the one that you are trying to solve”.<sup>198</sup> That is, if removing a poster generates fierce opposition from activists, then other alternatives are considered, provided that the content of the poster is not illegal.

The ‘battle of flags’ provides a vivid illustration of the ways in which the strategies of exclusion and resistance operate spatially. In fact, it is rare to see a Spanish flag in San Sebastian; as one of the exceptions, it should be mentioned the immense flag that undulates in the facade of the Spanish Naval Command. Basque flags on the other hand, are almost everywhere, from the balconies of Old Town to the top of Mount Urgull. For a long time, the permanent absence of both the Basque and the Spanish flags above the City Hall building was a clear sign of the Basque conflict.<sup>199</sup> When this situation changed, due to the mobilization of anti-Basque nationalism sectors seeking to enforce legal norms regulating the use of flags, protest spread. Figure 35 shows a banner in Old Town, positioned next to Basque flags, with a message calling for a demonstration against the Spanish flag hoisted up in the top of the City Hall building.

The control of physical places that are publicly visible is used to mediate political disputes that are expressed by flying flags. According to the 1978 Spanish Constitution, flags of the autonomous communities

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<sup>197</sup> See Sections 43.5, and 48 to 50, *Civic Responsibility and Protection of the Urban Landscape Ordinance*.

<sup>198</sup> Interview with a local authority (20-5), my translation.

<sup>199</sup> The only flag on display was the flag of the city of San Sebastian. Nevertheless, both the Basque and the Spanish flags were displayed above the City Hall building during especial occasions, along with the municipal and the European flags. See, for instance, the newspaper reports on the criticism of the *izquierda abertzale* regarding the display of the Spanish flag during the *Aste Nagusia*, an annual week of festivities, *El Diario Vasco*, 04 Aug. 2007; 16 Aug. 2007. See also the newspaper report on the display of flags in the Constitution Day, *El Diario Vasco*, 06 Dec. 2007. The Basque and the Spanish flags were also on display at the interior of the City Hall building.

shall be used together with the flag of Spain in public buildings and in official ceremonies.<sup>200</sup> The *Flags Act* also establishes that the Spanish flag shall be displayed on the exterior of all buildings belonging to the national, communitarian, provincial, and municipal administrations.<sup>201</sup> Buildings belonging to agencies of the Spanish national state, however, shall display only the Spanish flag.<sup>202</sup> In 2007, STS confirmed that the Spanish national flag is to be permanently displayed inside and outside of all public buildings, even if no other flag is simultaneously displayed.<sup>203</sup>



**Figure 35 – Basque flags in the streets of Old Town**  
**Source: photographed by the author, 2008.**

Later in that same year, the Spanish right-wing organization Manos Limpias, taking advantage of STS's decision, denounced the mayor of San Sebastian to the criminal courts due to his denial to fly the Spanish flag above the City Hall building.<sup>204</sup> Almost simultaneously, the PP proposed a motion to the City Council asking the mayor to put up the Spanish flag, but it was rejected by the majority of the councilors.<sup>205</sup> The judge of San Sebastian's judicial district also rejected the criminal charges against the mayor.<sup>206</sup> Nevertheless, Manos Limpias did not give up, suing the mayor through an administrative claim before the

<sup>200</sup> See Section 4.2, Spanish Constitution of 1978.

<sup>201</sup> See Section 3.1 of the *Flags Act*.

<sup>202</sup> See Sections 3.2 and 3.3 of the *Flags Act*.

<sup>203</sup> See *STS Sentence n. 5429/2007*.

<sup>204</sup> See *El Diario Vasco*, 22 Oct. 2007; 28 Nov. 2007; 01 Dec. 2007.

<sup>205</sup> See *El Diario Vasco*, 26 Oct. 2007; *Noticias de Gipuzkoa*, 26 Oct. 2007; 29 Nov. 2007.

<sup>206</sup> See *El Diario Vasco*, 11 Dec. 2007.

TSJPV.<sup>207</sup> The mayor was unable to resist such a strong legal pressure. In 2008, even without any clear judicial order, he decided to put up four flags (the municipal, the Spanish, the Basque, and the European) above the City Hall building on a permanent basis. He justified the decision saying that it was necessary “to make the different symbols of a plural country exist together, and also be coherent with the decision of presenting the candidature of San Sebastian as European Capital of Culture 2016”.<sup>208</sup> The *izquierda abertzale* protested, but was unable to oppose resistance by means of the legal system.<sup>209</sup>

Table 19 summarizes the discussion that was previously made. Spatial practice demonstrates that the Basque conflict cannot be entirely hidden from the public. The *izquierda abertzale*’s discourses that call for self-determination and amnesty for prisoners are widespread across the different neighborhoods in San Sebastian. Along with images of how an independent Basque Country could be, representational spaces concerning public spaces are at stake in the discourses of the *izquierda abertzale*. They do not regard streets, plazas, and boulevards only as places for circulation, amusement, and recreation. Instead, activists also perceive public spaces as politicized places, where free interactions are allowed, the risk of disorder is tolerated, and coercion cannot be imposed by powerful public administration agencies. Nevertheless, public visibility of these discourses in the tourist zone has been avoided by imposing a series of legal obstacles.

Legal obstacles often do not make any explicit reference to the content of the *izquierda abertzale*’s discourses. Rather, they are targeted mostly through direct mechanisms that affect the material means used to communicate political messages. The visibility of these discourses in the tourist zone is perceived as damaging the tourist image of public spaces because they are a reminder of the existence of a serious political conflict in the Basque Country. This becomes even more problematic because of the vigorous ideological construction suggesting that Basque nationalist activism is equivalent to political terrorism.<sup>210</sup> Although the

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<sup>207</sup> See *El Diario Vasco*, 17 April 2008; 30 April 2008.

<sup>208</sup> Quoted in *El Diario Vasco*, 19 May 2008, my translation.

<sup>209</sup> See *El Diario Vasco*, 20 May 2008; 25 May 2008; *Gara* 24 May 2008.

<sup>210</sup> There is a complex movement with multiple internal divisions under the umbrella of *izquierda abertzale*. However, through the expansion of the penal system, supported by the mass media and the main political parties, the Spanish state has criminalized not only the killings, bombs, and personal threatens practiced by ETA in name of nationalist ideas, but also much less aggressive actions like the *kale borroka* (street fighting, consisting in low-scale attacks to urban facilities and other non-human targets), as well as political parties, newspapers, and non-governmental organizations that supposedly support ETA.

risk of victimization by terrorist attacks is extremely low for tourists and other public space users in general,<sup>211</sup> such an ideological construction is used as a means to justify a series of repressive measures ranging from stringent policing – such as anti-riot police accompanying protesters – to more tenuous strategies – like the use of surveillance cameras around key buildings – to dissuade political dissent.

	legal norms	strategies of exclusion	strategies of resistance
flags	Government buildings shall display the Spanish flag together with the Basque flag. Buildings belonging to agencies of the Spanish national government are allowed to display only the Spanish flag. The municipal government decides about flags used in common use property.	Criminal charges may eventually be made against public authorities that disobey the legislation and courts' decisions. Non-authorized flags in common use property may be removed.	Political activists may: - put pressure on authorities to not display the Spanish flag; - put pressure on the municipal government to have only Basque flags in common use property; - use the balconies and windows of private buildings visible from the streets to display Basque flags.
demonstrations	It is mandatory to notify the Department of Interior of the Basque Government that a demonstration will take place. Demonstrations shall be the organized under the responsibility of natural or legal persons. Demonstrations shall not breach the public order.	The Basque Government may: - prohibit a demonstration because it is promoted by an outlawed organization or because the public order is at risk of being disturbed; - change the place and itinerary of the demonstration or impose other limits to preserve the public order. If the decision is not respected or authorities are not notified, the <i>Ertzaintza</i> anti-riot unit may stop the demonstration. Activists may be arrested and criminally charged.	Political activists may: - go to the courts to challenge the department of Interior's decisions - decide not to notify authorities; - promote the demonstration even if it was prohibited; If the police appear to stop the demonstration, they may: - negotiate conditions for the demonstration; - refuse to obey pacifically; - refuse to obey violently. Social clubs and taverns may be used as gathering places and as refuge for repressed activists.
banners, posters, and graffiti	It is outlawed to use elements of the city landscape to install banners, posters, or graffiti, including facades of private buildings or construction sites. It is necessary to ask for special authorization from the municipal authorities for such purpose that can be given only under specific circumstances.	The municipal authorities may deny authorization. Non-authorized banners, posters, or graffiti may be removed and fines may be imposed as sanctions. Criminal charges may eventually be made in case of damages to historical heritage or street furniture.	Political activists may: - go to the courts to challenge the denial of authorization; - use balconies and windows of private apartments, social clubs, or taverns visible from the streets; - engage in illicit behavior, installing posters, banners, and graffiti without requesting previous authorization or even if authorization is denied.

**Table 19 – Means to communicate discourses used by the *izquierda abertzale***  
Source: elaborated by the author

<sup>211</sup> See interview with a local authority (20-2).



The *izquierda abertzale* is a non-hegemonic group increasingly excluded from San Sebastian's tourist zone. However, for a long time this social group has been fighting its way back into the public. Indeed, its character of an urban social movement goes beyond its ability to articulate strategies of resistance against dominant representations of space. Struggling for the right to public space, political activists have also mobilized spatial tactics. The reasons why the discourses of the *izquierda abertzale* are still visible in the streets are not limited to the failing attempts by the agencies of the public administration to enforce legal norms. The Basque left-wing nationalists have created their own network of territorial spaces. The Basque taverns and gastronomical societies are perhaps the best example. Several establishments of this kind are located in Old Town, a less gentrified area than the Romantic Area and the Maritime district. The taverns and gastronomical societies perform an important role in assuring visibility of the *izquierda abertzale*'s discourses in the middle of the tourist zone and, through tourists, to the wider world outside of Basque Country.

#### 6.4.2 Street Vending

The legal obstacles imposed by statutes such as the *Civic Responsibility and Protection of the Urban Landscape Ordinance* targeted not only the *izquierda abertzale*, but also other social groups, such as street vendors. In San Sebastian, marginalized members of immigrant communities, especially those originated from Latin America, represent the majority of those who engage in street vending. Although the percentages of immigrants living in the metropolitan area of San Sebastian is limited compared to what is registered in the rest of Spain, changes related to their arrival and integration are clear. As an interviewee explained, "Most street vendors are immigrants arriving from Andean countries. Initially they were allowed, because it was allowed to sell handicrafts. If you have the ability to make bracelets, this does not cause problems. In the beginning those from Andean countries sold clothes, fabrics made by them, but in the end they all started to sell Chinese stuff."<sup>212</sup>

Government officials define street vending as an urban problem that emerged a few decades ago, but now has been solved. Indeed, street vendors are virtually inexistent in San Sebastian. It may be safe to say that street vending is almost completely absent from the urban landscape

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<sup>212</sup> Interview with a local authority (20-3), my translation.

both in the tourist zone and the non-tourist zone, including the beaches. There are only a few exceptions. Every weekend, a flea market takes place in the area surrounding Anoeta Stadium. In the winter, a handful of vendors sell chestnuts, while in the summer they sell industrialized foods such as fried fries and candies. Basque farmers also occasionally organize markets for rural products. Moreover, on special occasions vendors hold a street book fair and a Christmas craft market. Even if a careful observer may notice a few individuals trying to sell goods and services in the streets, plazas, parks, and beaches, the fact is that street vending is no longer part of the city's everyday life.

As a rule, unlicensed street vending is strictly prohibited in the entire municipal perimeter of San Sebastian.<sup>213</sup> The *Civic Responsibility and Protection of the Urban Landscape Ordinance* confirmed this rule, which is part of a public policy that was defined in statutes such as the *Street Vending Ordinance* from the 1980s. In the words of a government official, "Many years ago, long before the *Civic Responsibility and Protection of the Urban Landscape Ordinance* was enacted, we decided to take measures to fight street vending. We are pioneers in this sense [...]; we already had an act on street vending. [...] The truth is that we are lucky, or have been efficient, and street vending is practically inexistent."<sup>214</sup> There are exceptions because the *Street Vending Ordinance* states that temporary permits might be issued by municipal authorities to street vendors provided that this activity is exercised for a maximum of two days a week.<sup>215</sup> The permits sporadically issued by the Department of Maintenance and Urban Services include additional restrictions regarding place, time, quality of the goods on sale, and personal circumstances of the beneficiaries. The payment of a fee is required as well.

Arguably, the main motivation for strict measures against street vendors is what local authorities define as unfair competition *vis-à-vis* formal commercial establishments. According to a local authority, "Street vending presupposes unauthorized selling of products that do not pay taxes, do not offer any kind of guarantee, and often are the result of the exploitation of those who are trading. So it's an activity that nobody wants here, we don't like it [...]. We think that it doesn't generate any value, it doesn't generate employment; quite the opposite, it undermines

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<sup>213</sup> See Section 16 bis, *Civic Responsibility and Protection of the Urban Landscape Ordinance*.

<sup>214</sup> Interview with a local authority (20-3), my translation.

<sup>215</sup> See Art. 3, *Street Vending Ordinance*.

formal jobs.”<sup>216</sup> Government officials recognize that street vending is against the interests of the city’s merchants who have themselves heavily influenced the decision of regulating this spatial practice as strictly as possible.<sup>217</sup> As a local politician commented, “A tension arises between street vendors and the owners of commercial establishments that are established on a permanent basis. From this tension results the need of regulating the conditions under which street vending could be authorized. Maybe we can expand the cases in which permits are issued, but we don’t think that it would be appropriate to deregulate or generalize street vending.”<sup>218</sup>

But there are other reasons as well. In particular, local authorities express concerns about the impact of street vending on the tourist image of the city and tend to associate street vendors with a disordered public space. “If you open up to street vendors, they take La Concha promenade in the summer and nobody can walk there anymore. As far as I know this has never happened before, although nowadays is already difficult to walk because of the musicians, clowns, and so on, people who show their abilities for some coins. But unorganized street vending could represent a little disaster.”<sup>219</sup> Another government official added that “We are more flexible with things that might represent an attraction to the city, which certainly is not the case of street vending, but could be the case of street musicians, for instance.”<sup>220</sup> According to a civil servant, “We have a very radical attitude towards street vending, they already know it. You simply cannot come to San Sebastian to sell things, you are not even allowed to sell shirts, compact discs, nothing at all, zero! It must be like that; otherwise, what would be the margin of flexibility? [...] In the world there is of course a great deal of poverty, but San Sebastian cannot receive all of it.”<sup>221</sup>

The Municipal Police is the public administration agency responsible for enforcing legal norms regulating street vending. They have been enforced as strictly as possible over the past few years.<sup>222</sup> For instance, between 2005 and 2007, more than 300 infractions against the *Civic Responsibility and Protection of the Urban Landscape Ordinance* due to the practice of unlicensed street vending were registered and

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<sup>216</sup> Interview with a local authority (24-3), my translation.

<sup>217</sup> See interviews with local authorities (18-7, 24-3).

<sup>218</sup> Interview with a local authority (25-2), my translation.

<sup>219</sup> Interview with a local authority (23-2), my translation.

<sup>220</sup> Interview with a local authority (18-7), my translation.

<sup>221</sup> Interview with a local authority (20-4), my translation.

<sup>222</sup> See interviews with local authorities (17-6, 18-7, 20-3).

processed.<sup>223</sup> There are about 400 agents working for the Municipal Police, who also engage in crime prevention. There are many more agents working in Old Town, the Romantic Area and Maritime districts than in the rest of the city. These human resources are considered to be sufficient for the task of controlling a limited number of street vendors across the entire urban perimeter of the municipality.<sup>224</sup> Indeed, I have not found evidence of substantial differences in terms of norms enforcement between the tourist zone and the non-tourist zone in respect to street vending.

Under such circumstances, street vendors have limited alternatives for resisting strategies of spatial exclusion. As is the case in many other cities, one of these alternatives consists of engaging in this activity with as much discretion as possible, and making sure that it remains invisible to local authorities' eyes. Another strategy of resistance, more risky but also more likely to generate better earnings, is based on the constant monitoring of the presence of Municipal Police's agents. Street vendors avoid them, running from one place to another with the cloths and bedrolls in which the goods on sale are offered and stored.<sup>225</sup> However, street vendors have not succeeded in organizing themselves to maintain the control over territorial spaces in San Sebastian. Most of them cannot cope with the strategies of exclusion employed by local authorities. They are obliged to work in areas under the jurisdiction of neighboring municipalities such as Pasaia or even to move from one town to another during days of popular festivities.

From the Latin American immigrants' perspective, street vending is perceived as a legitimate activity for newcomers who are in a difficult situation and need to find a way to make a living. Although seeking to join a community that reproduces different social norms, immigrants come from places where street vending is far from being considered a deviant behavior. Nevertheless, local residents and tourists tend to believe that street vending does not belong to the modern cultural traditions of the Basque Country.<sup>226</sup> That is, they define street vending as something lacking authenticity, even if there are those who have a more tolerant attitude towards this practice and are more likely to buy goods and services sold by street vendors.<sup>227</sup> As a result, street vending

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<sup>223</sup> See *El Diario Vasco*, 30 Oct. 2007.

<sup>224</sup> See interview with a local authority (20-2).

<sup>225</sup> See interviews with local authorities (18-7, 20-3).

<sup>226</sup> See interview with a local authority (17-6).

<sup>227</sup> See the criticism of local authorities towards the tolerant behavior of local residents concerning street vending, *El Diario Vasco*, 10 Nov. 2006.

has been suppressed from the city's landscape quite successfully. This was achieved due to the combination of social norms classifying street vending as a deviant behavior, legal norms making this activity illegal on the grounds of unfair competition, and ideological norms representing it as a spatial practice that does not fit into the pretty picture portrayed of San Sebastian's public spaces.

#### *6.4.3 Street Maintenance*

In Spain the municipal government is responsible for the maintenance and repairing of sidewalks, street furniture, and gardening. This is different than several other cities around the world, where the repair and maintenance of sidewalks is the sole legal responsibility of the owner of the tract or parcel of urban land that is contiguous to the sidewalk. In the case of San Sebastian, the urban divide between formal and informal settlements is inexistent. Access to basic infrastructure is universal and every neighborhood has paved streets, sidewalks, and leisure areas. Even though, there are relevant differences regarding street maintenance from one neighborhood to another that should be critically interrogated.

The excellent maintenance of the streets in the tourist zone is remarkable. In fact, almost all of the sidewalks are covered by hexagonal grey and white stones. Moreover, street furniture includes well-painted and comfortable benches, drinking fountains that work properly, and trashcans that are empty of garbage. In general the gardening, cleaning, and sweeping of sidewalks are perfectly maintained. Nevertheless, the state of maintenance of the streets outside of the tourist zone looks more than slightly different. The absence of the hexagonal grey and white stones on the sidewalk is a clear sign indicating a neglected area. It is much more common to find trashcans full of garbage, benches completely painted over with graffiti, and drinking fountains that no longer offer fresh water. In addition, gardening, cleaning, and sweeping are sometimes overlooked. Figure 36 illustrates these contrasts comparing sidewalks situated in the tourist zone and non-tourist zone.

In spite of observable contrasts, government officials tend to deny that they are following an ideological norm stipulating that special attention must be paid to the tourist zone. "We assume that the downtown and the neighborhoods are treated equally. [...] The goal is to

intervene in the maintenance of the neighborhoods to make them look like the downtown,” reported an interviewee.<sup>228</sup> Nevertheless, the same interviewee recognized that the frequency and intensity of maintenance services are not the same everywhere. He claimed that this is due to the fact that the use of public spaces in the downtown is much more intense: “For instance, a citizen from a neighborhood like Altza goes to La Concha promenade, let’s say, 15 days per year. However, someone who lives in the downtown, or the tourist, they don’t go to Altza 15 days per year, do you see? Let’s say that everybody from San Sebastian goes downtown but not all visit the neighborhoods. The same applies in relation to visitors. So the cleaning is more intense downtown, but the goal in terms of maintenance level is the same. It’s like in anyone’s house: it’s easier to keep a room clean that is almost never used than another that is very often used.”<sup>229</sup>



**Figure 36 – State of sidewalk maintenance**  
**Source: photographed by the author, 2008**

But there is an ideological norm embedded in the organization of the maintenance services to a certain extent. For instance, the sweeping and cleaning of sidewalks is a public service that has been executed by private companies for a long time. In 2006 an eight-year administrative contract was signed by the municipal government for maintenance services, at an annual cost of more than ten million euros. For regulating the bidding process, the city government published a complex document called *List of Technical Specifications*, consisting of a series of norms describing in detail the how services should be executed.<sup>230</sup> The urban perimeter was divided into three different sections; distinct requirements

<sup>228</sup> Interview with a local authority (23-1), my translation.

<sup>229</sup> Interview with a local authority (23-2), my translation.

<sup>230</sup> See *Noticias de Gipuzkoa*, 23 Sep. 2006.

were made for each section concerning the frequency and intensity services were to be provided. The sidewalks of the tourist bubble are included in sections A and B, where the highest level of cleaning is required, while the non-tourist zone belongs to section C. These norms are assumed to be technical, but they function as a mechanism for the allocation of public resources. Once formalized into an administrative contract, they shape the way through which maintenance tasks are performed.

Although the *List of Technical Specifications* details the norms for the provision of maintenance services, the task of controlling the correct and complete execution of what is required from private companies on a daily basis is a challenge. Indeed, the municipal government does not strictly control fulfillment of the contractual requirements. According to a government official, “Private companies know where there is more control, and even when it’s informal, where it’s more or less noticeable. ‘Well, here I assume that they’re more willing to take care of the fulfillment of the requirements than they’re elsewhere, a place that is far away and where just a few people would complain.’ This is how things usually work.”<sup>231</sup> On the one hand, ideological norms play a role in terms of encouraging especial attention on the tourist zone. Of course, the companies are aware that the services they provide in the tourist zone have more visibility. On the other hand, the role played by social norms in the fulfillment of the contractual requirements cannot be neglected. Regardless of the content of administrative contracts, the neighborhoods where residents are more active in presenting complains to local authorities tend to benefit from better quality street maintenance.

The role of social norms is also strong in respect to the maintenance of sidewalks. Hexagonal grey and white stones have been used to cover the city sidewalks for a long time. This particular design was initially adopted in the tourist zone, and later extended further to all neighborhoods. However, the municipal government is not obliged by any legal norm to make use of the traditional hexagonal grey and white stones to cover the sidewalks. According to an interviewee, “The citizens demand this kind of paving stone. Interestingly enough, sometimes they ask for it even in places where it is not technically advisable to use them. They say, ‘For us it must be like it is downtown, we want the hexagonal stones!’ ‘For us it must be like it is downtown, we don’t want to be second-class citizens!’ [...] It works very well and

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<sup>231</sup> Interview with a local authority (19-9), my translation.

we use them, but there are not rules about it, it's customary. [...] The architects, real estate developers, they know that nobody will complain if they use this kind of paving stone. This gives an image of continuity, of unity to the city, and helps to give the sensation that the maintenance is very similar everywhere."<sup>232</sup>

Residents of non-tourist neighborhoods such as Altza and Intxaurreondo often claim that there are two cities within San Sebastian; on the one side, the tourist districts and on the other, the residential neighborhoods. The differences can be observed concerning street maintenance confirm to a large extent such a perception. Public spaces in the tourist zone are given more attention by the public administration agencies and private companies than those in the non-tourist zone. Nevertheless, the government seeks to intervene in order to counterbalance patterns of uneven development. In the words of a local authority, "We do not make distinctions between zones. The sidewalks of the most peripheral neighborhood of the city, which is Altza, a working class neighborhood, have the same paving stones, the same street furniture that is used in the downtown, on La Concha promenade. This is part of the local government's policy."<sup>233</sup> This policy is to a large extent a consequence of the action of neighborhood associations and can also be associated with the rise of social norms over the standard of quality required for public spaces.

#### *6.4.4 Square Redevelopment Projects*

Since the 1990s, the city government has invested heavily in public space redevelopment projects. On the one hand, this process involved the complete remodeling of the network of squares and parks of tourist interest that dated back to the late 19<sup>th</sup> century and early 20<sup>th</sup> century, such as Alameda del Boulevard and Gipuzkoa Plaza. On the other hand, investment benefited plazas and parks spread across distinct neighborhoods. Funding came mainly from the municipal budget and partly from higher governmental levels, occasionally including funds from the European Union. In recent years, due to the economic crisis, the resources available for projects of this kind became much more limited, and alternative sources of funding have been considered. One example is the redevelopment of squares associated with the construction of new housing units by private real estate developers, like

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<sup>232</sup> Interview with a local authority (23-4), my translation.

<sup>233</sup> Interview with a local authority (24-4), my translation.



in the case of Plaza San Luis. Another example is the renovation associated to the economic exploitation of underground parking lots, like in the case of Plaza Cataluña.

In spite of public investments, parks and squares in the tourist zone still look very different in terms of quality than those in the non-tourist zone. Local authorities, however, tend to reject the idea that they are following ideological norms suggesting that special attention should be given to the tourist zone. They also deny that tourists' interests should be necessarily taken into account when square redevelopment projects are conceived. In the words of a government official, "We hope that those who visit us can stroll on the streets, parks, and we have a fantastic network of parks [...]. We hope they can go there not as tourists, but to spend the morning relaxing, reading, drinking something, enjoying the city as any other resident. The same with the streets and squares, we want them to be used in a normal way; we do not want to have parks for tourists."<sup>234</sup>

The renovation projects are conceived and executed without following a general legal framework, although there are certain technical norms that have to be considered concerning some elements, such as the street furniture used in playgrounds. But each project, for the most part, is executed separately and for a specific purpose, according to a particular set of rules. Nonetheless, comparing the way that some redevelopment projects have been carried out, shows the extent to which differences concerning legal norms governing the decision-making process matters for the standard of quality that is achieved in respect to a given public space. In what follows, I contrast the redevelopment project of Plaza Cataluña, in the tourist zone, with the case of Plaza San Luis, in the non-tourist zone.

The redevelopment project of Plaza Cataluña, the main square in the Gros neighborhood, started in 2006 and was recently concluded with the novelty of involving an official participation mechanism for the residents. First, the municipal government asked the residents to present suggestions and proposals concerning the design of the new plaza. Then, a public competition was held in which architects and landscape planners presented concrete proposals for the new plaza, taking into consideration the data collected from the neighbors. Three projects were selected to be discussed in open meetings and were submitted to public scrutiny. Finally, the neighbors were allowed to vote in order to decide which of the three projects would be more suitable to their needs and

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<sup>234</sup> Interview with a local authority (24-2), my translation.

interests. Figure 37 shows images of the old Plaza Cataluña and the three proposals selected for deliberation.

The Plaza San Luis redevelopment project, which occurred roughly during the same time, was a diametrically opposite experience. The lack of official participation mechanisms marked the decision-making process. Plaza San Luis is the main public space of Herrera, a small area within Altza, one of San Sebastian's largest neighborhoods. This square was redesigned due to the implementation of a new viaduct and construction of housing units. This project was a component of the Special Plan of Interior Reform, which is an initiative with a broader scope of revitalizing the neighborhood. Herrera does not appear on the city's tourist maps. Nevertheless, *Herripe Auzo Elkarte*, the neighborhood association, which originated from the urban struggles in the 1970s, has been one of the most active social movements fighting for public spaces in the city. In conclusion, the community of Herrera was against the new viaduct and displeased with the negligent way through which the redevelopment of Plaza San Luis was carried out by the municipal government.



Figure 37 – Plaza Cataluña redevelopment project  
Source: San Sebastian City Council, 2006

They neighbors claimed to have the right to decide about the public spaces on their own neighborhood.<sup>235</sup> Figure 38 illustrates the way their representational spaces were introduced into spatial reality, through the construction of an opposition between the undesirable viaduct (*'bialaki ez!'*) and the desirable Plaza San Luis (*'San Luis Plaza bai!'*). While the viaduct was the focus of attention on the representations of space conceived by the municipal government, the plaza was the central concern of the representational spaces of Herrera's community. This sequence of images indicates changes in the content of actions and discourses that characterized the social pressure exercised by the association on government officials, that is, the formalization of an alternative redevelopment project (*'la alternativa'*). This counter-hegemonic representation of space was developed from below against the one imposed from above. Nevertheless, the success of this alternative project depended upon changes in the normative framework through which the construction was taking place.



**Figure 48 – The alternative redevelopment project for Plaza San Luis**  
Source: photographed by the author, 2008

The cases of Plaza Cataluña and Plaza San Luis are not just a matter of residents' participation in land use decisions. According to a government official, the neighborhood of Altza is, "A zone of the city where people feel like if they were second-class citizens; if you ask them, they will say that there is a first-class city and a second-class one.

<sup>235</sup> See *Noticias de Gipuzkoa*, 11 Nov. 2007; 23 Feb. 2008; 28 Feb. 2008; 03 May 2008; *Diario Vasco* 23 April 2008; 03 May 2008; *Gara* 29 May 2008.

The benches are worst there, the gardens do not exist. Why is that so? Unfortunately I believe that the residents are right, the natural tendency of the government is to take care of what looks more urgent, and forget about the rest [...]. We understand that tourists definitely do not come to visit Plaza San Luis, but this does not mean that it shouldn't be well maintained.”<sup>236</sup> In the case of Plaza Cataluña the concerns of government officials made it possible to advance official participation mechanisms. Nevertheless, in the case of Plaza San Luis, representations of space were conceived through a series of bureaucratic urban planning procedures and the most affected citizens did not take part in the decision-making process. They were obliged to resist and struggle for their plaza.

#### *6.4.5 Social Norms and Social Groups*

The ability of different social groups to make use of social norms to assume control over territories is not the same. As I have shown, street vendors have not succeeded in organizing themselves to develop norms of such kind. They have been unable thus far to offer effective resistance against the repressive action of the state and are now excluded from the city. The *izquierda abertzale*, on the other hand, is a powerful social group that controls territories right in the middle of the tourist zone. Not surprisingly, government officials take social norms associated with the action of political activists seriously. The action of neighborhood associations has also been crucial to the creation of social norms over the quality standard required for public spaces. The customary use of the hexagonal grey and white stones on sidewalks constitutes one of the best examples about the importance of social norms. Nevertheless, there are limits to this process of achieving a similar degree of urban equality between the tourist zone and the non-tourist zone through social norms.

#### *6.5 Concluding Remarks*

San Sebastian is a tourist city where the intense use of public spaces is remarkable. Nevertheless, its history shows that the priority given to the production of spaces for visitors is directly associated to patterns of uneven development. The standard of quality of public spaces situated in the non-tourist zone still differs substantially from that

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<sup>236</sup> Interview with a local authority (17-9), my translation.

of those situated in tourist districts. The process of democratization and the action of the local government has modified public policies, but there is much to be done in respect to urban inequalities. Since the end of the 1970s, the city population has become stable. The lack of affordable housing has been associated to this this stability and is now seen as a major problem from the perspective of middle-class families, especially young people and immigrants. But in general, the focus of urban struggles is now turned to other issues rather than the expansion of the urbanized area. Conflicts range from the quest for controlling the public of users to the spatial distribution of investment in the promotion of public uses.

This case study described how different kinds of norms mediate the production of public spaces. Differences in terms of regulation appear between public spaces situated in the tourist zone and the non-tourist zone. These differences involve the content of ideological norms, legal norms, and social norms, as much as the peculiarities of legal and spatial practices in San Sebastian. The state at the local level has controlled the public of users, especially the actions and discourses of particular social groups who put the tourist image of the city at risk, such as political activists and street vendors. But these social groups have also fought back claiming inclusion. As it was discussed above, the current strategies to improve public spaces reinforced patterns of uneven development. The imbalance in the distribution of public investments between the tourist zone and the non-tourist zone is to a large extent embedded in the norms framing street maintenance and square redevelopment projects. Nevertheless, this case study has also suggested that the rise of social norms can counterbalance patterns of uneven development.

## CHAPTER 7

### **Beyond the Island of Magic: Public Space Regulation in Florianópolis, Brazil**

One of Brazil's most important tourist destinations, Florianópolis has a very peculiar geography. It is a city composed of a small continental part and a large insular area, Santa Catarina Island. There are three bridges linking the mainland to the island, including Hercílio Luz Bridge, the city's most famous postcard. As a tourist guidebook explains, this old suspension bridge "is no longer open to traffic, but still lights the night sky, acting as the defining feature of Floripa's spectacular skyline."<sup>237</sup> In the tourist imaginary, the bridges are the entrance gates to 'the island of magic', a land of "superb beaches, beautiful scenery, interesting culture and friendly people."<sup>238</sup> Beyond these tourist representations, however, there is a much more complex, contradictory, and contested urban space characterized by a series of social inequalities and patterns of uneven development. Everyday life in Florianópolis is permeated by urban, environmental, and cultural conflicts that are also manifest in its squares, parks, streets, and beaches.

This chapter studies public space regulation in Florianópolis. It is divided into four sections. Section 7.1 presents an overview of the city's urbanization process. Section 7.2 discusses public space regulation at the ideological layer, relating tourist representations of space to the rise of ideological norms. Section 7.3 looks at the legal-institutional layer, scrutinizing legal norms governing public spaces that are found in statutory texts and planning documents. Furthermore, section 7.4 addresses the layer of concretized relationships, studying concrete social conflicts over public spaces and the role of social norms. On the one hand, I focus on the state's repressive function in controlling the public, by analyzing conflicts involving street vending and political activism. On the other hand, I look at the state's promotional function in promoting public uses, by discussing street maintenance and square redevelopment projects. I conclude this case study in section 7.5 by presenting some remarks about the intersections between public space regulation and patterns of uneven urban development.

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<sup>237</sup> Excerpt from a tourist guidebook (Tg7).

<sup>238</sup> Excerpt from a tourist website (Tw6).

## 7.1 *The Production of the Tourist Florianopolis*

As the capital of the State of Santa Catarina, Florianopolis provides administrative, commercial, educational, and financial services to a region with a diversified economy. For many decades, the tourism industry was the city's main economic activity. The industrialization of the island was barred, due to environmental impact. Nevertheless, in recent years the government, in partnership with local universities, encouraged the development of small innovative startups and high-tech businesses. As a result, information technology took over as the main source of tax revenues.<sup>239</sup> In what follows, I draw from the contextual literature about Florianopolis to describe the main stages of its urbanization process. The starting point is the decade of the 1950s, when tourism first began. The tourist boom from the mid-1970s onwards, characterized by urban growth and massive arrival of visitors, caused the city to market itself as the 'tourist capital of Mercosur'. Finally, the current stage corresponds to the crisis of the tourist monoculture, the rise of alternative economic activities, and the quest for quality tourism.

### 7.1.1 *Conversion into a Tourist Destination*

Florianopolis was already an important city in the Southern Region of Brazil in the 1950s, when it started to attract the first modern tourists. In front of the cathedral, Plaza XV de Novembro was the town's main public space,<sup>240</sup> a heritage from the Portuguese colonization. Most urban dwellers lived in the surroundings of this central square, an area that today is known as the Historic Center.<sup>241</sup> The rural dwellers lived in small traditional Azorean farming and fishing villages that were spread across the interior of the insular area, such as Santo Antonio de Lisboa and Ribeirão da Ilha, which today are administrative districts belonging to the city of Florianopolis.<sup>242</sup> In that period, the beaches situated on the continental peninsula, such as Coqueiros and Balneário, were visited more often than the beaches on

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<sup>239</sup> See *Notícias do Dia*, 03 July 2011.

<sup>240</sup> For an ethnographic account about Plaza XV de Novembro, see Coradini (1995).

<sup>241</sup> The Historic Center corresponds to the area of the old colonial town of Nossa Senhora do Desterro, a commercial port from which Florianopolis originated. For an analysis of the formation of the Historic Center until the 1950s, see Vaz (1991: 21-61).

<sup>242</sup> These districts, once called *freguesias*, date back from colonial times and were composed of a small plaza in front of the church and family houses along the road, inhabited mainly by Portuguese colonizers from the Azores.

the island.<sup>243</sup> Indeed, access to the island's northern beaches (Jurerê, Canasvieiras, Brava, Ingleses, Santinho), eastern beaches (Barra da Lagoa, Mole, Joaquina), southern beaches (Campeche, Armação, Pântano do Sul), as well as Conceição and Peri lagoons, still was quite precarious.

The inauguration of the Federal University of Santa Catarina (UFSC) campus in the 1960s, followed by the administrative headquarters of Eletrosul energy company in the 1970s, constituted landmark events in the urbanization process. Public administration agencies, universities, and public companies, added to the charming environment of the island, attracted high-skilled workers and middle-class students from the rest of Santa Catarina as well as the neighboring states of Rio Grande do Sul, Paraná, São Paulo, and Rio de Janeiro. The newcomers contributed to the development of residential neighborhoods in the interior of the island like Trindade, Córrego Grande, Santa Mônica, and Itacorubi, which were once rural lands isolated from downtown by Morro da Cruz hills. The growth of the local population was favored by the fast migration from the countryside to the main urban centers. This was a phenomenon that Brazil as a whole experienced since the 1950s due to the mechanization of the agriculture, concentration of landownership in the hands of a few, and the promise of a better life offered by expanding metropolitan areas.

It was not until the mid-1970s that spending summer vacations and holidays in Florianópolis became a form of mass leisure for middle class Brazilians. This phenomenon was closely related to the rise of the automotive industry, construction of a highway system to reduce travel times, and the provision of basic infrastructure such as running water and electricity to the villages on the island. Also, the construction of the BR-101 federal highway connected Florianópolis to major cities in the Southern Region of Brazil, such as Porto Alegre and Curitiba. In addition, the government of Santa Catarina inaugurated paved roads that crossed the island, which made it much easier to access the beaches and lagoons by car. Finally, public authorities decided to fill in the coastal areas on the northern shore of the island with earth, in order to build a major seaside avenue downtown. The Beira-Mar Norte Avenue became a wall of multi-story buildings, the favorite address of elite residents, and symbol of a city converted into a modern tourist destination.

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<sup>243</sup> For a historical account about the practice of sea bathing in Florianópolis, see Ferreira (1998).



### 7.1.2 *The Tourist Capital of Mercosur*

Since the 1980s the city has gained prestige not only among national tourists from Rio Grande do Sul, Paraná, and São Paulo, but also among foreign visitors from South American countries like Argentina and Uruguay. Benefiting from an overvalued currency, the offer of charter flights, and relative geographical proximity, Argentinians in particular started to arrive in mass in Florianópolis when they realized that spending their vacation on the coast of the Southern Brazil was much cheaper than going to Argentina and Uruguay's beaches. The tourism industry took considerable advantage of this favorable context. The warm water beaches in the northern part of the island guaranteed the tourist boom of the 1980s and 1990s and the success of the 'sun and sea' formula during the summer season. Following the agreement of regional integration among Argentina, Brazil, Uruguay, and Paraguay launched by the Treaty of Asunción in 1991, Florianópolis marketed itself as 'the tourist capital of Mercosur'.

Mass tourism resulted in the exponential growth of the population during the high season. For local residents, the summer meant the best time for doing tourist business, but also higher living costs, traffic congestion, and saturation of the infrastructure. Within a few decades the permanent population also grew considerably. In 1970, Florianópolis was home to approximately 140,000 people. By the end of the century, the population had increased to more than 330,000 inhabitants.<sup>244</sup> The tourist development attracted workers as much as it did tourists, but unlike the first wave of migrants, the second wave was primarily composed of poor and low-skilled workers seeking seasonal jobs related to the tourism industry. They started to work as maids, waiters, taxi drivers, and shopkeepers. Many remained in a situation of sub-employment after the end of the vacation season and could not afford the formal housing market's prices.<sup>245</sup> As a result, squatter settlements (called *favelas* in Brazil) flourished, especially in Morro da Cruz hills,<sup>246</sup> and in the outskirts of the continental peninsula.

The growth of tourist Florianópolis also led to conflicts between locals and newcomers. There were considerable differences between the lifestyle and the cultural identity cultivated by the traditional inhabitants

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<sup>244</sup> According to official figures (see Pimenta, 2005: 38).

<sup>245</sup> For a critical analysis of the relationship between the tourist monoculture and the expansion of informal work in Florianópolis, see Ouriques (1998).

<sup>246</sup> For a detailed description of the housing conditions in Morro da Cruz hills, see Pimenta & Pimenta (2005).

of the interior of Santa Catarina Island (so-called '*manezinhos*') and the values and practices brought by high-skilled workers, middle-class students, and tourists arriving from major urban centers (so-called '*de fora*'). More importantly, the displacement of traditional inhabitants became routine, in the northeast part of the island initially, and in the eastern and southern parts afterwards. Most farming and fishing villages were converted into hotel, restaurant, and second residence developments, while their traditional population was obliged to start to make a living from the tourism industry.<sup>247</sup> Contradictions of this kind would soon become the basis of a conservative discourse claiming that newcomers were taking over the island from its traditional dwellers.<sup>248</sup> This discourse would weigh heavily in the local elections, which were reestablished with the end of Brazil's military dictatorship (1964-1985).

### *7.1.3 The Quest for Quality Tourism*

By the late 1990s, mass tourism in Florianópolis began to enter a crisis. There were increasing concerns about the contamination of the water, cutting of native forests, irregular construction, traffic congestion, and destruction of the island's outstanding nature. That is, the urban and environmental problems coming from the tourist model of development became the subject of public scrutiny.<sup>249</sup> The disordered expansion of the urbanized area was seen as the main negative impact of the tourist trade, and the tourist monoculture started to be painted as a risk to the quality of life enjoyed by a considerable amount of the city's residents.<sup>250</sup> In addition, Brazil and Argentina suffered severe economic recessions that drove middle-class tourists out of the State of Santa Catarina. Local leaders' answer to the crisis was twofold. First, they thought that Florianópolis should take inspiration from international tourist destinations like Miami, Cancun, and Ibiza, and seek high quality for tourism. Second, they decided that the growth should continue and the city transformed into a coastal metropolis, but through careful urban planning and development of innovative economic activities.

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<sup>247</sup> On the transformation of the traditional inhabitants' cultural identity and lifestyle and the differences in respect to newcomers, see Lago (1996) and Kuhnen (2002).

<sup>248</sup> For a detailed analysis of the political consequences of the tensions between traditional inhabitants and newcomers, see Fantin (2000: 35-70).

<sup>249</sup> In the 1990s an extensive report about the social and environmental problems of Florianópolis commissioned by federal authorities was published (see CECCA, 1997).

<sup>250</sup> In the late 1990s the United Nations released a report based on the Human Development Index that placed Florianópolis as Brazil's capital city with highest quality of life.

The quest for quality tourism resulted in a number of emblematic urban projects. Jurerê International, a neighborhood located in the northern part of the island, was designed and implemented by a real estate company as a luxury residential condominium. It is open to the public, but has its own planning and building rules, as well as private security and maintenance services. This neighborhood has attracted not only seasonal but also permanent residents, and started to become famous as a destination for party-seekers. Costão do Santinho Resort, one of Brazil's most prestigious beachfront hotels, and Brava Beach's tourist complex, are other examples of emblematic projects dedicated to elite visitors. The project of building a metropolis of the coast, on the other hand, was reflected in initiatives aimed to convert the city into a hub for high-tech innovation. These included the so-called Tecnópolis around the university campus, and Sapiens Park, close to Canasvieiras beach. The idea was that Florianópolis could attract everything from small startups to large information technology companies, due to its tourist image, high quality of life, and degree of environmental conservation.

But this search for even more growth faced opposition from some activist groups. Fierce battles between the tourism industry and the environmentalists dated back to the early 1990s, when media campaigns accused the latter of being 'enemies of progress'. Many newcomers, especially middle-class students and high-skilled workers, have developed a strong ecological consciousness, taking part in neighborhood associations and non-governmental organizations. The environmental movement became a protagonist of initiatives foreseeing a sustainable and middle-sized city.<sup>251</sup> In parallel to struggles of this kind, the city saw the rise of urban social movements focusing on the needs of the poor, in particular the mobilization of squatter settlements' dwellers against forced evictions, and students against public transportation costs. Since 2008, a major program providing for the regularization and urbanization of informal settlements in Morro da Cruz hills, combined with the creation of a public park dedicated to environment conservation, is being implemented due to resources set aside by the federal government and additional funding from the regional and municipal governments.

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<sup>251</sup> For a discussion about these two visions, see Fantin (2000).

#### *7.1.4 Urban Space Produced*

In spite of the tourist growth, Florianópolis is still a mid-sized city. Downtown and its surroundings are home to nearly half of its inhabitants. More than one quarter of the total population lives on the continental peninsula, while the rest is divided between a dozen of administrative districts situated across the interior of the island. Florianópolis is the nuclear city of an urban agglomeration comprising São José, Palhoça, Biguaçu, and Santo Amaro da Imperatriz, which are neighboring municipalities situated along the continental peninsula. The displacement of the traditional and poor inhabitants to the mainland has increasingly made room for gentrified residential neighborhoods in the insular area, where living costs are very high and access to adequate housing is only affordable for the middle and upper classes. As a result, today the tourism industry's workforce lives mainly in the hills surrounding downtown, the outskirts of the continental peninsula, and in neighboring cities. The space production process has resulted in a socially fragmented and territorially dispersed resort city that is divided into a tourist and a non-tourist zone.

#### *7.2 The Ideological Layer*

Tourist promotion and physical interventions that have changed the environment have made Florianópolis the most important tourist destination in Southern Brazil. The appealing images marketed through tourist materials of all sorts, such as that of the old suspension bridge leading to the 'island of magic', began to influence visitors' expectations about its urban space. In this section, I discuss aspects concerning public space regulation at the ideological layer, by means of evidence from semiotic analysis of tourist materials and interviews with local authorities. I start my analysis by describing tourists' motivations and expectations regarding to Florianópolis. Next, I examine the tourist attractions and districts that are found in the city, as well as the configuration of its tourist zone. The analysis then turns to a debate about the image of the city and its public spaces that has been marketed over the last decades. Finally, I explore the intersections between tourist representations of space and the ideological norms of the tourist city.

### *7.2.1 Tourists' Motivations and Expectations*

Florianopolis is a tourist destination visited mainly by Brazilians. The vast majority of the domestic tourists are from the neighboring states of Rio Grande do Sul, Paraná, and São Paulo. The second relevant tourist market is from Argentina, Chile, Uruguay, and Paraguay. The highest tourist season begins in mid-December and ends in mid-February, coinciding with the summer season. Florianopolis's competitive advantages include geographical proximity to tourist markets of great importance and connectivity to major urban centers in South America. Nevertheless, the unstable climate make it difficult to compete with other tourist destinations, such as Rio de Janeiro and the seaside cities in the Northeastern Region of Brazil, when it comes to attracting North American, European, and Asian tourists.

Most tourists who visit Florianopolis are interested in spending their summer vacation and holidays relaxing on the dozens of beaches that are found across Santa Catarina Island. There are many hotels available as well as homes for short-term rent. The 'sun and sea' tourist model is responsible for attracting a great deal of South American tourists, in particular to the warm water beaches in the northern part of the island. But the island's outstanding natural beauty, with its lagoons, rivers, dunes, hills, mangroves, extensive areas covered by Atlantic rain forest, and the picturesque landscape of the historical Azorean villages are additional reasons to visit the city throughout the year. Moreover, it offers quality tourist services, including a variety of gastronomic options ranging from international cuisine to typical seafood restaurants that are found in old fishing villages; and an attractive nightlife, especially during the summer season and holidays.

### *7.2.2 The Tourist Zone and its Attractions*

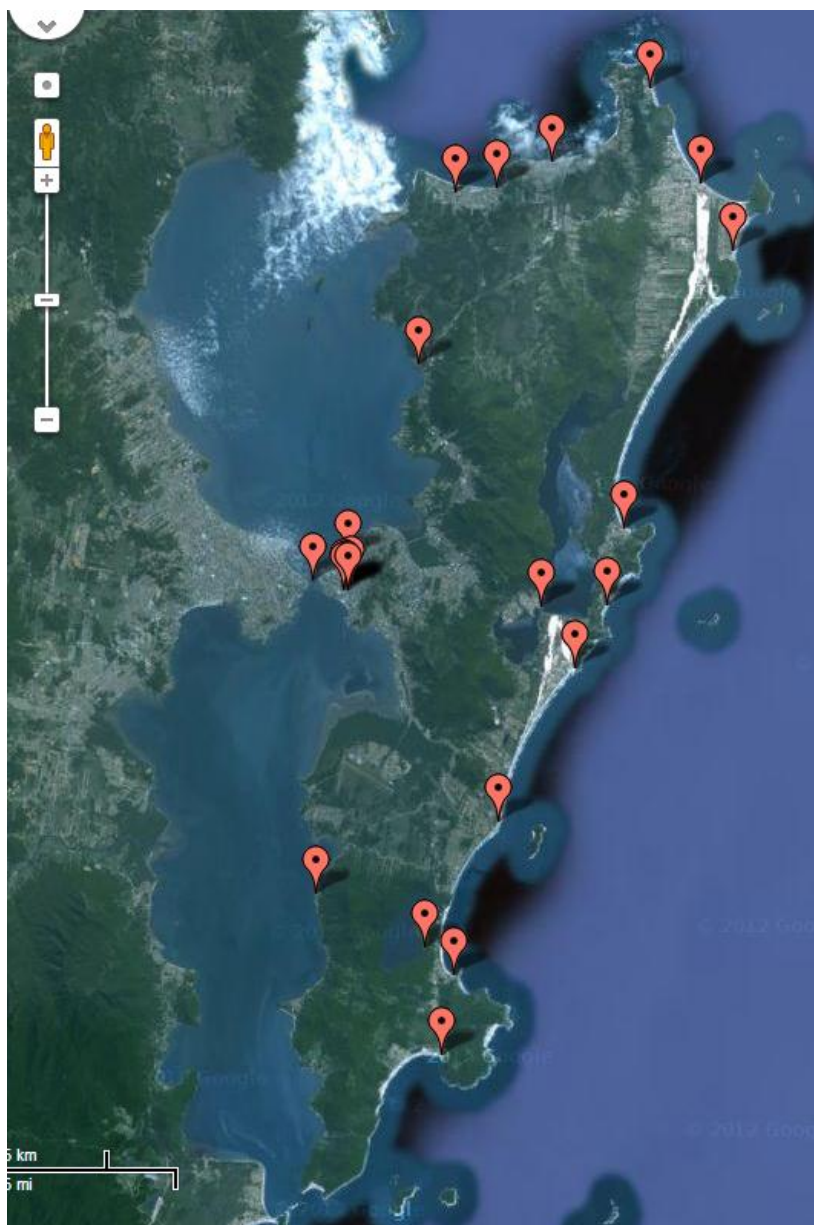
A list of Florianopolis' tourist attractions and districts is provided in Table 20. The first tourist district that can be distinguished is the Historic Center, which extends from Plaza XV de Novembro to Beira-Mar Norte Avenue. The second tourist district is the island's northern beaches. A third tourist district worthy of mentioning is the Conceição Lagoon and the adjacent beaches. There are also off-district attractions such as the two main Azorean villages, the island's southern beaches, and the Peri Lagoon. Most tourist attractions have a natural or historical origin. One can expect visitors to focus primary on the natural attractions, in particular the beaches and iconic elements of the

landscape like the Conceição Lagoon. Artificial and historical attractions are sites of secondary interest. However, tourists may spend a considerable time in the Historic Center, where shopping and nightlife activities take place.

Districts	Attractions	Nat.	Hist.	Art.	Tg7	Tg8	Tg9	Tw5	Tw6
Historic Center <i>Centro Histórico</i>	Beira-Mar Norte Avenue <i>Avenida Beira-Mar Norte</i>			•	•	•	•	•	
	Cruz e Sousa Palace - Historical Museum <i>Museo Histórico do Palácio Cruz e Sousa</i>		•		•	•	•	•	
	Alvaro de Carvalho Theater <i>Teatro Álvaro de Carvalho</i>		•			•	•	•	•
	Plaza XV de Novembro and the cathedral <i>Praça XV de Novembro e catedral metropolitana</i>		•		•	•	•	•	•
	Hercílio Luz Bridge <i>Ponte Hercílio Luz</i>		•		•	•	•	•	•
	Felipe Schmidt Street <i>Rua Felipe Schmidt</i>		•		•			•	
	Municipal Market and Old Customs House <i>Mercado Municipal e Alfândega</i>		•		•	•	•	•	•
Island's Northern Beaches <i>Praias do Norte da Ilha</i>	Jurerê and Canasvieiras beaches <i>Praias de Jurerê e Canasvieiras</i>	•			•	•	•	•	•
	Jurerê Internacional neighborhood <i>Jurerê Internacional</i>			•			•	•	
	Brava, Ingleses and Santinho beaches <i>Praias Brava, dos Ingleses e Santinho</i>	•			•	•	•	•	•
Conceição Lagoon <i>Lagoa da Conceição</i>	Joaquina beach <i>Praia da Joaquina</i>	•			•	•	•	•	•
	Conceição lagoon <i>Lagoa da Conceição</i>	•			•	•	•	•	•
	Barra da Lagoa and Mole beaches <i>Praias da Barra da Lagoa e Mole-Galheta</i>	•			•	•	•	•	•
other attractions	Azorean Village of Santo Antonio de Lisboa <i>Freguesia de Santo Antonio de Lisboa</i>		•		•	•	•	•	•
	Azorean Village of Ribeirão da Ilha <i>Freguesia do Ribeirão da Ilha</i>		•		•	•	•	•	•
	Campeche beach and island <i>Praia do Campeche e Ilha do Campeche</i>	•			•	•	•	•	•
	Armação and Pântano do Sul beaches <i>Praias da Armação e Pântano do Sul</i>	•			•	•	•	•	•
	Peri Lagoon <i>Lagoa do Peri</i>	•			•		•	•	•

**Table 20 – Tourist districts and attractions – Florianópolis**  
Source: elaborated by the author, based on tourist guidebooks and websites

A satellite image of Florianópolis' urban perimeter is provided in Figure 39, indicating the geographical location of tourist attractions. Although the boundaries between the tourist and non-tourist zone cannot be precisely distinguished, it is possible to see that all of the tourist districts are located on Santa Catarina Island. There are no tourist attractions of relevance on the mainland. Compared to the entire extension of the urban perimeter, these three tourist districts are a very limited, discontinuous, and fragmented tourist bubble.



**Figure 39 – Tourist attractions – Florianópolis**  
**Source: image adapted from Google Maps, 2012; based on tourist materials**

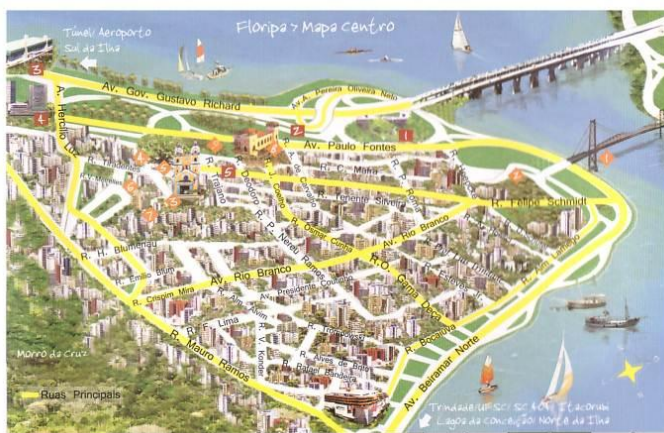
### 7.2.3 *The Image of the City*

Instead of using one single cartographic piece, map makers often depict Florianópolis through various tourist maps. The main map within the collection is typically large enough to represent the shape of Santa Catarina Island's coastline in some detail, illustrating the fact that there are several beaches of tourist interest. The insular area is colored in shades of green and appears at the center of the images, while blue colors distinguish ocean water and lagoons, as can be seen in Figures 40, 41, and 42. The signifier 'land surrounded by water' that symbolizes the abstract experience of 'being on an island' is the maps' most relevant compositional sign. The second sign of importance are the bridges connecting the island to a larger landmass. The signified that is evoked is once again the idea of 'being on an island', that is, being isolated from the wider world. In Figures 41 and 42, the pictograms used to represent the idea of bridge make direct inference to an actual object, the Hercílio Luz Bridge, the most important tourist symbol of the 'island of magic'. In the tourist imaginary, being on an island is automatically associated with the idea of experiencing a paradisiac place that encourages leisure time.

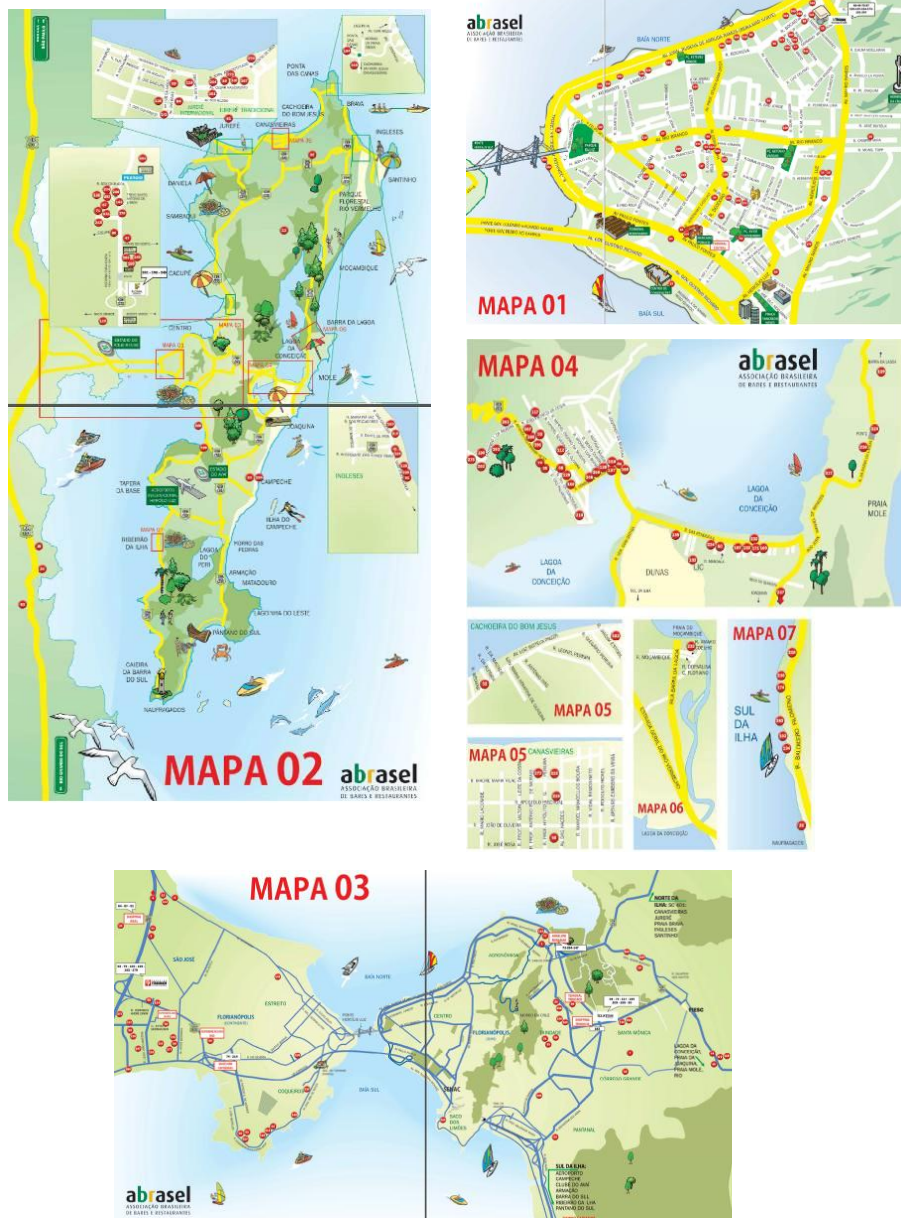
The tourist map that shows Santa Catarina Island's entire length not only gives an idea of unity of the insular area, but also indicates a fundamental separation between island and mainland. On the island, visitors are expected to find tourist attractions. The continental peninsula, however, is depicted as a necessary path leading to the entrance gates of the island, the bridges. The main maps in Figures 41 and 42 clearly reinforce a pervasive representation of space: the idea that the tourist Florianópolis is only the island. This first separation between the tourist and non-tourist space is complemented by a second one that is dependent upon the images found in smaller maps within the collection. As Figure 42 exemplifies, these tourist maps zoom-in on selected parts of the main map and represent Florianópolis' tourist districts and attractions, such as the Historic Center, the island's northern beaches, Conceição Lagoon, Azorean village of Ribeirão da Ilha. That is, they make it clear that the part of the city that really matters for tourist consumption is fragmented, discontinuous, and much more limited than the total extension of the insular area.







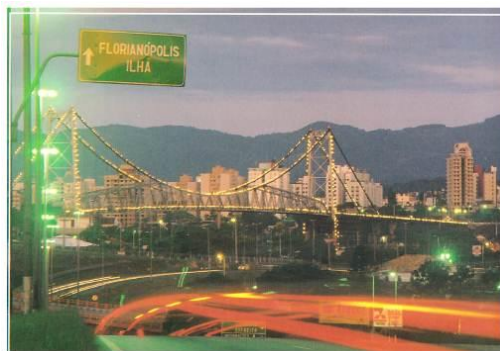
**Figure 41 – Tourist maps of Florianópolis (Tm8)**  
**Source: printed material, author's collection**



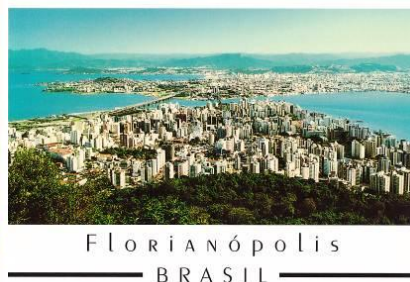
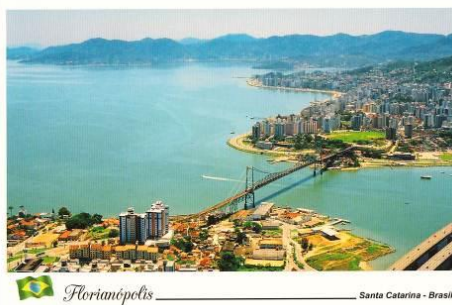
**Figure 42 – Tourist maps of Florianópolis (Tm9)**  
**Source: printed material, author's collection**

### 7.2.4 The Image of Public Spaces

The images displayed by postcards of Florianópolis illustrate how public spaces in the tourist zone are represented by the tourism industry. The Historic Center is the tourist district that is represented in Figures 43, 44, 45, and 46; the island's northern beaches are shown in Figures 47, 48, and 49; while Conceição Lagoon is depicted in Figures 50 and 51.

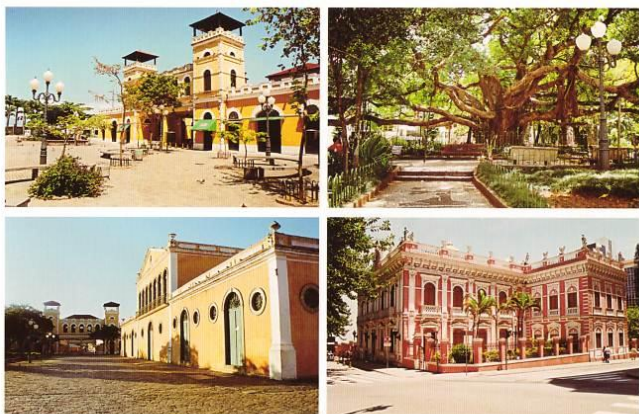


**Figure 43 – Postcard of the Historic Center (Tp21)**  
Source: printed material, author's collection



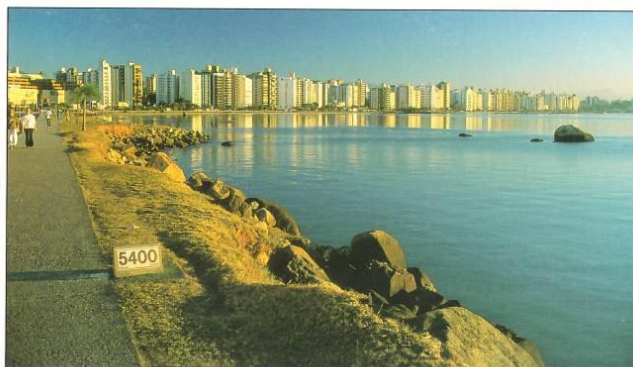
**Figure 44 – Postcards of the Historic Center (Tp22 and Tp23)**  
Source: printed material, author's collection





Florianópolis

**Figure 45 – Postcard of the Historic Center (Tp24)**  
**Source: printed material, author's collection**



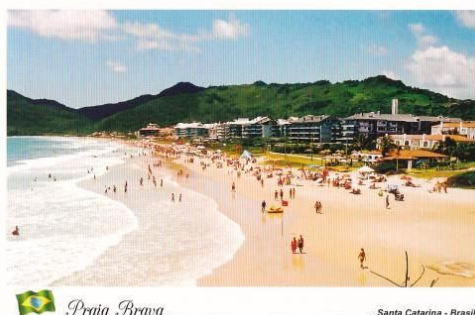
*Beira-Mar Norte*

*Florianópolis*

**Figure 46 – Postcard of the Historic Center (Tp25)**  
**Source: printed material, author's collection**



**Figure 47 – Postcard of island’s northern beaches (Tp27)**  
**Source: printed material, author’s collection**



**Figure 48 – Postcard of island’s northern beaches (Tp28)**  
**Source: printed material, author’s collection**



**Figure 49 – Postcard of island’s northern beaches (Tp30)**  
**Source: printed material, author’s collection**



MIRANTE LAGOA DA CONCEIÇÃO

**Figure 50 – Postcard of Conceição Lagoon (Tp26)**  
**Source: printed material, author's collection**



PRAIA DA JOAQUINA

**Figure 51 – Postcard of Conceição Lagoon (Tp29)**  
**Source: printed material, author's collection**

The bridges are the most important sign in Figures 43 and 44, evoking once again the abstract experience of ‘city located on an island’. Not surprisingly, these photos are taken from a perspective that privileges the sight of the Historic Center’s buildings to the detriment of the continental peninsula, which is represented as a simple path leading to the island. The ‘green hills surrounding buildings’ in Figures 43, 44, 47, 48, and 49, as much as the old fig tree in Figure 45, are signifiers related to the signified ‘city with a preserved and exuberant nature’, and have as their referents the areas covered by Atlantic rain forest and the trees of Plaza XV de Novembro. Nevertheless, the postcards’ images do

not refer to signs indicating, for instance, the cutting of native forests and irregular construction on the island. As Figures 45 and 46 illustrate, postcard makers have excluded signs related to signifieds such as ‘poverty’, ‘difficulties to relax’, and ‘social unrest’ from their representations of squares and streets. Figures 47, 48, 49, and 51, which represent Conceição Lagoon and the island’s northern beaches, also exclude signs related to street vending, as they would not be interpreted as pleasant experiences by visitors.

### *7.2.5 Ideological Norms and the Tourism Industry*

Interviews illustrate local authorities’ ways of seeing public spaces. In the words of a government official, “You are there to feel alright. But then you arrive and find a person in a sad state, crying in pain, screaming, and there you go: you would take a picture of the cathedral, but that already became a poorer image. You wish you could stroll in downtown, but there are street vendors on every corner, you have to jump over tables, you cannot walk on the sidewalks, you have to go to the middle of the streets because they are invaded by tables. All of this has consequences for the image of the city.”<sup>252</sup> Another local authority added, “The city, to be a tourist city, must first and foremost have the basics: a beautiful plaza, sidewalks, the bus stop, the tourist information stand. It must start from the base, it doesn’t work if you want to arrive on the top but haven’t taken the necessary steps. [...] It is just a matter of looking at the world’s biggest tourist destinations. They are so big because their attractions are bigger than ours, of course, but also because their organization and infrastructure is almost 100%. You see flowers in the squares, well cared for trees, tourist signs, sidewalks you can walk on.”<sup>253</sup>

As can be inferred from these interview excerpts, government officials tend to believe that the city must prioritize the tourist zone for financial and non-financial resources designated for public spaces and also that it must grant privileges to the actions and discourses that are most profitable to the tourism industry. The imagery reproduced by tourist postcards and maps plays a major role in influencing local authorities’ expectations about how public spaces should look. In spite of tensions between the different groups controlling the tourism industry in Florianópolis, their common interests are benefited by means of

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<sup>252</sup> Interview with a local authority (37-3), my translation.

<sup>253</sup> Interview with a local authority (40-3), my translation.



public space policies informed by the ideological norms of the tourist city. In addition, by marketing itself as a high quality tourist destination, Florianópolis not only responds to the tourism industry's aspirations, but also enhances its attractiveness to the creative sectors of the global economy.

### *7.3 The Legal-institutional Layer*

Making the spatial practice conform to the marketed image of the city and its public spaces requires a set of legal norms guiding the action of public administration agencies. In what follows, I focus on the role of the state at the local level and analyze public space regulation at the legal-institutional layer, considering evidence from documents and interviews with local authorities. I start by examining the policy-making context within which public space policies are conceived and implemented. Then I describe the content of the main planning documents and statutory texts related to the regulation of public spaces. I also discuss issues concerning jurisdictions and the distribution of powers among public administration agencies. This section ends with some remarks about the intersections between legal norms and tourist representations of space.

#### *7.3.1 The Policy-making Context*

Since the end of the military dictatorship, Florianópolis has been predominantly governed by center-right political coalitions. In 1985, Edison Andrino from Brazilian Democratic Movement Party (PMDB), the successor of the official opposition party to the military, was elected mayor. Espiridião Amim, from Progressive Party (PP), the successor of the dictatorship's official party, won the 1988 elections. As an exception, Sérgio Grando, from the emerging Workers' Party (PT), won the 1992 elections. But his center-left coalition was defeated in the 1996 elections, which were heavily influenced by the conservative discourse claiming that newcomers were taking over the island. PP returned to City Hall with Ângela Amim, who was re-elected in 2000. Dário Berger won the 2004 and 2008 elections, running first for the Brazilian Social Democracy Party (PSDB) and then for the PMDB.

Democracy not only brought political plurality back to all governmental levels, but also strengthened federalism. Brazil's 1988 Constitution granted more decision-making powers to municipalities. City governments now have much more autonomy than a few decades

ago to formulate urban policies, although municipal bureaucracies rarely have adequate conditions for playing this role effectively. But in order to implement programs and projects, they must work with different governmental levels, and the role of the federal and state governments is still crucial in respect to financial issues. In Florianopolis strategic decisions concerning urban development are made mainly at the municipal level. In recent years, due to the activism of neighborhood associations, non-governmental organizations, and social movements, government officials and city councilors have been pressured to create mechanisms of popular participation. Moreover, administrative and legislative decisions have been subjected to judicial review much more frequently, due to the battles between environmentalists and the tourism industry, combined with the action of public prosecutors.

### 7.3.2 *Governing the City*

Until the mid-1990s, norms governing land-use planning were to a large extent committed to the idea of transforming Florianopolis into an industrial port city. As the content of the city's 1955 and 1976 master plans suggest, this was the city model that local authorities appointed by the military envisioned. Nonetheless, these plans were never followed rigorously and suffered constant modifications. The urbanization process has progressed in the opposite direction due to the tourist boom, and Florianopolis was converted into a tourist city that grew without consistent planning. In 1985, a partial land-use plan was approved to regulate the fast urbanization of the island's beach villages. Yet, it was not until 1997 that the City Council enacted a city master plan taking the tourist growth seriously into consideration. But as a government official explained, "From 1997 onwards, more than five hundred partial changes to the plan's content were approved, adapting it to the city's needs. The population has good reasons to be wary of uncertainty and signs of corruption."<sup>254</sup>

Since 2006, the *City's Master Plan* has once again been under revision. The novelty is that popular participation in the decision-making process is now mandatory, according to the *City's Statute*, federal legislation enacted in 2001. Such a process has been a matter of fierce conflicts, complex technical issues, and long negotiations between social actors. It has deep socioeconomic impacts for the social actors' interests, as it frames landowners and government officials' powers

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<sup>254</sup> Interview with a local authority (39-2), my translation.

concerning land use. As an interviewee commented, “The big discussion is related to housing. Current policies quintuplicated the number of people living in squatter settlements over the last four decades. Now we have almost 15% of the population living in squatter settlements, which is nearly the percentage of Rio de Janeiro. This is because we have a highly elitist city master plan that considers that the poor can be expelled from Florianópolis, since it didn’t create housing options for them.”<sup>255</sup> In addition, there are significant debates about environmental conservation, urban transportation, and public spaces. What is at stake, essentially, is the city model to be pursued in the near future.

### 7.3.3 Public Space Management and Zoning Districts

Apart from the *City’s Master Plan*, there are other statutes of relevance as sources of legal norms related to public space management. The *City Code of Conduct*, which dates back from the dictatorial period, but was revised on different occasions over the last decades, provides concrete tools for sanctioning conduct perceived as disorderly. Currently it is once again under revision, but at this time through a participatory decision-making process, including debates with relevant social actors.<sup>256</sup> The legislation from the democratic period includes the *Street Vending Ordinance*, which was enacted by the City Council in 1986. In addition, the *Public Space Adoption Program Ordinance* that came into force in 1987, proving norms for the participation of private companies in square redevelopment projects. They have reflected not only the quest for ordered public spaces that entered into the political agenda of a city that was emerging as a major tourist destination, but also residents’ aspirations regarding to quality of life.

These statutes neither adopt spatial tactics nor create zoning districts to manage public spaces. Instead, legal norms are the same for the entire urban perimeter. But they are of fundamental importance for defining the actions and discourses over public spaces that should be targeted by public administration agencies. Local authorities are expected to take these norms into account in everyday decisions; otherwise, they are at risk of being sanctioned by authorities at higher administrative levels as well as judicial authorities. Local residents are also expected to follow the behavior imperatives provided by legal norms. If they fail to do so, government officials are authorized to use

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<sup>255</sup> Interview with a local authority (35-3), my translation.

<sup>256</sup> See interview with a local authority (33-3).

coercive means to obtain compliance. For instance, sanctions ranging from fines to confiscation of merchandise are described in the legislation as legitimate means to compel those who work as street vendors to obey legal norms.<sup>257</sup>

#### *7.3.4 Public Administration Agencies and their Jurisdictions*

Tasks relating to public space management are performed by different public administration agencies. The Military Police, which is ultimately subject to the command of the State Governor of Santa Catarina, is the main agency responsible for enforcing legal norms governing the use of public spaces for political activism. It does so in collaboration with the Municipal Police and Public Services Department (SESP), which are also the municipal administration agencies that enforce legal norms regulating street vending. In respect to the state's role in promoting public uses, various municipal agencies perform relevant tasks, including the Urban Development Department (SMDU) and Urban Planning Institute of Florianopolis (IPUF), which are responsible for urban redevelopment projects and sidewalk regulation. The Public Works Department constructs and maintains parks, plazas, and streets. Moreover, the City Improvement Company (COMCAP) provides street cleaning and sweeping services. Lastly, the Municipal Foundation for the Environment (FLORAM) does gardening and pruning services in parks and plazas.

SESP, SMDU, and FLORAM, however, do not perform their tasks in the entire urban perimeter. In practice, they only work in the insular part of the city, due to the existence of another agency established by the municipal government to take care of the continental peninsula, the Mainland Department. It has a small staff that, among other tasks, is responsible for enforcing norms about street vending and street maintenance, and also performs gardening and pruning services in parks and plazas. That is, at least for certain purposes, the continental peninsula is regarded as a jurisdictional space separate from Santa Catarina Island. Moreover, there is another aspect regarding the continental peninsula to be taken into account. Neighboring cities such as São José and Palhoça are jurisdictions outside of the scope of action of Florianopolis' authorities.

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<sup>257</sup> See Art. 13, *Street Vending Ordinance*, and Arts. 158 and 165, *City Code of Conduct*.

### *7.3.5 Legal Norms and the State*

At a first glance it can be said that legal norms governing public spaces do not vary spatially, but representations of space defining whether or not a given place belongs to the tourist zone have an unequivocal impact on the organization of services provided by public administration agencies. Consequently, there are reasons to expect that a gap between the content of the norms that are written in planning documents and statutory texts and the way they are enforced and implemented in everyday life will exist. Legal practices besides of being subject to a degree of spatial selectivity are likely to target particular social groups' actions and discourses rather than randomly misbehaved individuals. Such aspects concerning public space management in Florianopolis stand out when concrete examples of social conflicts over public spaces are considered.

### *7.4 The Concretized Relationships Layer*

In this section, I provide an account of concrete examples of social conflicts over public spaces in Florianopolis, based on qualitative evidence from direct observations, newspaper reports, documents, and interviews with relevant social actors such as local authorities, members of the tourism industry, and members of social movements. I start by looking at conflicts involving street vending and political activism, and then turn to conflicts about street maintenance and square redevelopment projects. My goal is to illustrate how property relations concerning public spaces work at the layer of concretized relationships. Through this empirical discussion, I also seek to analyze the interplay of ideological, legal, and social norms with social and legal practices.

#### *7.4.1 Street Vending*

Many low-skilled workers who decided to migrate to Florianopolis from the 1970s onwards did not find formal occupations in the tourism industry. Instead, they made their livelihood from informal activities such as street vending. Brazilians represent the vast majority of street vendors, but there are also some foreigners from South American countries such as Argentina and Bolivia. The first group of street vendors is composed of migrants who decided to stay in the city, regardless of the unstable conditions of the labor market. There is also another group composed of seasonal migrants who are originated mainly

from the Northeast Region of Brazil that travels long distances every year to sell their products during the summer season. Street vendors usually sell handicrafts, foodstuffs, beverages, and industrialized goods like sunglasses, wristwatches, and clothing. Some of them are not really autonomous workers, as they have to share earnings with informal entrepreneurs and established firms that provide them with the merchandise.

Street vendors work in Florianopolis' public spaces daily, both in the tourist and non-tourist zone. Street vending becomes an even more significant economic activity for many families during the summer. During this season, street vendors prefer to work on the coast, particularly on the island's northern beaches such as Canasvieiras and Ingleses, where the mass of tourists guarantee sales. During the rest of the year, however, the Historic Center is street vendors' favorite workplace (see Figure 52). There are also street vendors working in the interior of the island and on the continental peninsula, but in less significant quantities. Holidays, such as Christmas, New Year's Eve, Carnival, and the Day of the Dead are considered special occasions for profitable business and thus attract a large number of vendors to the streets.



**Figure 52 – Street vendors working in the Historic Center**  
**Source: photographed by the author, 2011**

Since the 1980s, the municipal government has created policies aimed to organizing the street vending in downtown. Statutes were enacted to prohibit unlicensed street vending. The *City Code of Conduct* and the *Street Vending Ordinance* state that temporary permits can be issued to street vendors, provided that their activity is exercised according to certain requirements. Indeed, permits are issued by SESP on an individual basis and include several requirements regarding sanitary conditions, quality of goods on sale, and the personal circumstances of the beneficiary, as well as the payment of a fee. In addition to more stringent regulation, two public markets (*camelódromos*) were built in order to relocate street vendors who formerly worked in fixed stalls downtown.<sup>258</sup> The demand for stalls at public markets, however, by far exceeded the number of places available, and new groups of vendors began to occupy the downtown streets.

Local merchants associations such as Florianopolis' Chamber of Shop Owners (CDL) and the Commercial and Industrial Association of Florianopolis (ACIF) have lobbied heavily in favor of being as strict as possible when it comes to regulating street vending. One of the main reasons to control this spatial practice is that it supposedly gives place to unfair competition, since goods are sold at lower prices on the streets due to the absence of costs related to taxes, labor rights, and rent.<sup>259</sup> Moreover, street vendors are accused of obstructing pedestrian and motorized circulation, especially downtown. Nonetheless, sometimes they are looked at more sympathetically. As a local authority questioned, "The state let them take the streets for so many years; it's the main responsible for this situation. How can we now put an end to something where they earn their livelihood?"<sup>260</sup> Another added that, "On the one hand, street vending is necessary, as it creates opportunities for small entrepreneurs."<sup>261</sup> Following this line of argument, a third interviewee declared that vendors, as small entrepreneurs, "Have to take advantage of the period in which they stay on the streets, when they don't have costs with water, electricity, and rent, to learn how to work as businessmen. [...] But always with the perspective of leaving the streets someday, instead of remaining there for decades."<sup>262</sup>

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<sup>258</sup> See interviews with local authorities (33-2 and 34-2).

<sup>259</sup> See interviews with local authorities (31-3 and 38-2).

<sup>260</sup> Interview with a local authority (31-2), my translation.

<sup>261</sup> Interview with a local authority (32-3), my translation.

<sup>262</sup> Interview with a local authority (33-2), my translation

It was not until the past few years that the municipal government put forward a more sophisticated approach to deal with street vending, even without changing the legislation. The permit system was combined with spatial tactics, and SESP started to regularly issue calls for applications for temporary street vending permits.<sup>263</sup> The applicants, in addition to needing to observe legal requirements, are expected to comply with additional norms that limit in advance the number of licenses that can be granted within selected sites and the type of goods that can be commercialized. Permits are valid for a period of one year in the case of downtown, a couple of months on the beaches in the summer, or a few days in the case of particular holidays. The most important consequence of this approach is that authorized street vendors can no longer choose where they want to work or change their locations and the goods on sale according to their needs and aspirations. As a government official explained, “We’re mapping everything, locating them in places where they don’t disturb, putting them to work with goods that don’t compete with the established commerce.”<sup>264</sup>

Such a process of locating street vendors is influenced by tourist representations of space. Not surprisingly, calls for applications thus far refer to areas belonging to the tourist zone of Florianópolis, such as the Historic Center and island’s beach villages. According to a government official, “Street vending has been a problem in the city as a whole. But we’ve already succeeded in taking them out of Plaza XV de Novembro and other areas of the city that are mainly traditional streets with a more expensive commerce.”<sup>265</sup> Another local authority argued that the current policy is directed at downtown and island’s beach villages, “In the neighborhoods we haven’t acted more intensively, the biggest problem is downtown; things are under less control in the neighborhoods. [...] Also on the beaches, in the summer; last year we listed 1,200 people to work on the beach. [...] The demand is bigger than the offer, even if there are only a few people who come out at the moment when calls for applications are released, the real demand appears afterwards, when the high season starts. There is a demand that isn’t from here, people who come from the interior of Santa Catarina and other states [...], they don’t submit applications on time and work illegally.”<sup>266</sup>

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<sup>263</sup> See, for instance, the *Administrative Ruling on Beach Vending Permits for the 2009/2010 Season*, issued by SESP. Also see newspaper reports on the calls for applications in the following years, for instance *Diário Catarinense*, 24 Oct. 2010.

<sup>264</sup> Interview with a local authority (33-2), my translation.

<sup>265</sup> Interview with a local authority (38-2), my translation

<sup>266</sup> Interview with a local authority (33-3), my translation



SESP, in collaboration with the Municipal Police, is responsible for enforcing the permit system, sanctioning street vendors who do not have a license, or fail to comply with legal requirements. Street vendors can be asked to move, get fined, or have merchandise confiscated by municipal inspectors. There are a dozen of inspectors working for SESP, who have their physical integrity safeguarded by Municipal Police agents during law enforcement operations.<sup>267</sup> However, this is considered to be insufficient for the task of controlling street vendors across the urban perimeter. The Historic Center is the focus of the enforcement operations carried out by SESP throughout the year, while beaches are targeted in the summer. Thus, there are substantial differences in terms of norms enforcement between the tourist and the non-tourist zone.

Enforcement operations, combined with the spatial tactics that started to be used by SESP, to a large extent undermined street vendors' ability to organize themselves in order to control territories for street vending in the Historic Center and on the beaches.<sup>268</sup> Social norms that thus far guided the spatial distribution of groups of street vendors across the city were suddenly replaced by legal norms, that is, the detailed rules found on calls for applications for street vending permits. In addition, vendors who succeed in getting a permit are now more likely to denounce unauthorized colleagues to municipal inspectors, especially if they are newcomers. Nevertheless, there are those who keep working illegally, "The second they see the inspectors they evade them by putting the goods they sell in their bedrolls,"<sup>269</sup> as an interviewee put it. He added, "There are those who enjoy to work on the streets, it's difficult to remove them, they really like to be there even if it entails sacrifices such as carrying the merchandise, facing the rain and wind."<sup>270</sup>

Street vendors, as much as the residents and tourists who buy goods sold by them, perceive their activity as a legitimate way to make a living, and thus are not alone in opposing stringent regulation. As a government official stated, "Public space is the cheapest space in the whole world; everywhere you go there are street vendors, it's not only a problem in Florianópolis. [...] If there are street vendors in New York, why wouldn't they be here? [...] If you fight those people, you will hear

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<sup>267</sup> See interviews with local authorities (33-3 and 37-2).

<sup>268</sup> See newspaper reports on these enforcement operations, *Diário Catarinense*, 29 April 2011; *Notícias do Dia*, 04 May 2011.

<sup>269</sup> Interview with a local authority (33-4), my translation.

<sup>270</sup> Interview with a local authority (33-2), my translation.

from anyone that they have a right, because they're the poor ones who are working instead of stealing, killing, or drug dealing. Street vendors exist because people buy from them. You can't regulate this; in order to regulate it you must call for a competition for permits and establish a limited area where they can stay. And what's going to happen? It will soon get crowded and they will cross the lines. So you must have continuous repression, and it doesn't always work, it's like a war."<sup>271</sup> In such struggles, street vendors' strategies of resistance are becoming increasingly more limited *vis-à-vis* public administration agencies' spatial tactics.

#### 7.4.2 Political Activism

Even though Florianópolis is a regional capital, it has not been considered a privileged site for street protests historically.<sup>272</sup> Social groups of relevance to the city's everyday life, like street vendors or hotel and restaurant employees, seldom succeed in using public spaces as a means of conveying political messages. Over the last decade, however, this situation has changed considerably. Public sector workers, student movements, and environmentalists have increasingly promoted sit-ins, rallies, and marches. Some episodes of large-scale protest became incidents with regional and national repercussions. The most remarkable examples certainly are the demonstrations against the proposed increases in urban public transportation fares, the so-called 'Turnstile Revolts' that were organized in the winters of 2004 and 2005 by the Free Pass Movement (MPL), gathering mainly college and high school students.<sup>273</sup>

Street protest typically takes place on the main streets of the Historic Center, culminating at the area between the Cathedral and Plaza XV de Novembro. This is considered a strategic area for political activism because of the intense flow of people throughout the day and the fact that public administration agencies have their offices there. Indeed, politicians and civil servants at the municipal, state, and federal

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<sup>271</sup> Interview with a local authority (39-4), my translation.

<sup>272</sup> An important exception is the episode known as *Novembrada*, in November of 1979, when thousands of people took the streets of the Historic Center to protest against the military dictatorship during an official visit paid by President João Figueiredo to Santa Catarina. But Florianópolis, when compared to other regional capitals in Brazil such as Porto Alegre, Rio de Janeiro, and São Paulo, does not have a strong tradition as a site for political activism.

<sup>273</sup> For evidence of the national repercussion of the 'Turnstile Revolts', see the newspaper reports *Folha de São Paulo*, 13 July 2004; 01 July 2005; and 04 July 2005.

governmental levels are the main audience that protesters seek to reach. Nonetheless, massive demonstrations sometimes spread beyond the core of the Historic Center toward Mauro Ramos and Paulo Fontes Avenues, which may eventually be blocked by protesters. In recent years, especially during the ‘Turnstile Revolts’, the Central Terminal for intra-city bus lines, located next to the Public Market; the Beira-Mar Norte Avenue, the main tourist street; and Colombo Salles and Pedro Ivo bridges, the two passages open to traffic connecting the island to mainland, have also been among the sites targeted, and on occasions blocked by thousands of protesters.

Government officials concede that the use of public spaces for political activism is part of democratic life, even if it may bring some inconveniences to particular social groups like tourists and drivers. As an interviewee put it, “I took part of this kind of movement when the military ruled and was very worried about the possibility of being arrested. [...] It’s part of democracy; people have the right to protest. [...] For tourists it’s understandable, because in their city or region, they have the same kind of issues of all countries that are democracies.”<sup>274</sup> And he added, “If you’re displacing yourself by car and have to stop in front of a demonstration, you may eventually get angry and annoyed, but you must understand that this is part of democracy.”<sup>275</sup>

Yet, controlling marches and rallies has been on the political agenda of local authorities. Firstly, there are conflicting rights. As a local authority highlighted, “I think that the people, the ideological groups that want to protest, have the right to do so provided that they don’t disturb the everyday life of the city. [...] It is unfair if just to complain about something you go there and start blocking the main avenues, the bridges as they always want to, because that’s like shredding the Constitution. [...] We have the right of expression and the right to come and go as we please, so we must respect each other.”<sup>276</sup> Second, because there are concerns about damages to public property caused by the presence of vandals among activists. As the same interviewee explained, “Every movement includes those who think and want to make it orderly, and those who come to cause disorder, throw stones at police, and sometimes are there following orders of those who don’t want the movement to succeed.”<sup>277</sup>

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<sup>274</sup> Interview with a local authority (31-3), my translation

<sup>275</sup> Interview with a local authority (31-3), my translation.

<sup>276</sup> Interview with a local authority (31-3), my translation.

<sup>277</sup> Interview with a local authority (31-3), my translation.

Peaceful assembly and freedom of expression are fundamental rights, according to Brazil's 1988 Constitution. It states, "All persons may hold peaceful meetings, without weapons, in places open to the public, regardless of authorization, provided that they do not frustrate another meeting previously called at the same place, subject only to prior notice to the competent authority."<sup>278</sup> In Florianópolis, the competent authorities are the Military Police, Municipal Police, and SESP. Government officials are not expected to decide about the convenience of public meetings, nor make recommendations concerning place, time, and date. Prior notification is required to allow authorities to guarantee traffic flow, safety conditions, and the maintenance of public order. In addition to constitutional norms, there are other legal norms to be taken into account, such as those of the *City Code of Conduct* stating that placing posters, banners, stickers, paintings, graffiti or any other kind of advertisement on the facades of private and public buildings, walls, sidewalks, monuments, and street furniture, is not allowed, unless the interventions are previously authorized by municipal authorities.<sup>279</sup>

Nonetheless, protesters rarely give prior notice to the competent authorities. As a government official illustrated, "Suddenly there is an assembly of school teachers, and at the end of the assembly they go out angry, blocking streets and so on."<sup>280</sup> According to a social movement member, "I've helped to organize more than a hundred demonstrations. If there were five out of all of them that we asked for authorization it would be a lot. It's not a customary practice, because then you lose a little of the meaning of protesting, which is precisely to contest the established order. [...] In specific cases we did it, for instance when we organized a musical show and gave prior notice because we needed to install the audio equipment. But the normal behavior is not to ask [...], I think that's right."<sup>281</sup> Also, it would be unthinkable for most protesters to organize demonstrations without at least some of the actions that are outlawed by the *City Code of Conduct*. That is, political activists are guided by social norms that differ from legal norms.

Local authorities' reaction to the use of public spaces for political activism has been a matter of controversy over the years. According to a government official, whenever the streets are taken, "We try to recover lost ground. We put ourselves in front of the movement, the Municipal

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<sup>278</sup> Art. 5, XVI, *Brazil's Federal Constitution*, my translation.

<sup>279</sup> Art. 107 (n) (t), *City Code of Conduct*.

<sup>280</sup> Interview with a local authority (37-3), my translation.

<sup>281</sup> Interview with a social movement member (45-2), my translation.

Police as much as the Military Police, and talk to the leaders, check their intended itineraries, try to control by radio, closing streets, finding alternate routes for the traffic, making things happen in a peaceful way.”<sup>282</sup> However, such a standard reaction often leads to spatial tactics used to legitimize the violent dispersion of demonstrators from certain sites by police forces. For instance, just a few months before the 2004 ‘Turnstile Revolt’, the Santa Catarina’s High Court of Justice (TJSC) confirmed a prohibitive injunction (*interdito proibitório*) against MPL, aimed to prohibit demonstrations organized by this movement at the Central Terminal.<sup>283</sup> Similar judicial orders have been used for other sites and organizations. Also, the Military Police, supported by recommendations released by public prosecutors, decided that demonstrations should no longer be allowed on Beira-Mar Norte Avenue and Colombo Salles and Pedro Ivo bridges, due to the consequences for the traffic flow.<sup>284</sup>

But in addition to affecting the traffic flow, political activists have other goals in mind when selecting the bridges and Beira-Mar Norte Avenue as sites to be occupied. As a MPL activist reported, “Although we didn’t leave our activities and preparatory meetings with the perspective of blocking the bridges or street A, B, or C, we had an understanding that some spaces were very much strategic for the city. At our assemblies people used to sometimes say, ‘Hey, look, let’s close Beira-Mar Norte Avenue, that’s the bourgeoisie’s place!’ There was this kind of conversation, there was such thing that particular streets are more significant than others, because they are more symbolic, or are of strategic importance to the city. The bridges were the main symbolic reference of the ‘Turnstile Revolts’, the bridges closure. It was not a pre-defined goal, but rather an idea that arose from people right there at the very moment in which demonstrations were taking place.”<sup>285</sup> That is, protesters realized that by occupying the bridges and Beira-Mar Norte Avenue they were actually subverting tourist representations of space.

### 7.4.3 Street Maintenance

Legal norms governing urban planning in Florianópolis, as is commonly the case in Brazilian cities, require real estate developers to

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<sup>282</sup> Interview with a local authority (37-3), my translation.

<sup>283</sup> See *TJSC Sentence Appeal n. 2003.021015-6*.

<sup>284</sup> See *Recommendation of the Prosecutor’s Office in Florianópolis to the Military Police Chief*, and interview with a local authority (32-4).

<sup>285</sup> Interview with a social movement member (45-2), my translation.

provide lots with adequate infrastructure before starting to occupy land. Minimal requirements include the construction of two-meter wide sidewalks on both sides of the streets.<sup>286</sup> According to the *City Code of Conduct*, landowners are responsible for constructing, repairing, and maintaining street sidewalks that are contiguous to their properties,<sup>287</sup> while SMDU and IPUF are responsible for enforcing legal requirements.<sup>288</sup> Other public administration agencies such as COMCAP and FLORAM provide additional maintenance services like street cleaning, sweeping, gardening, and pruning.

As a historical result of the urbanization process, however, most city neighborhoods do not have sidewalks in accordance with the minimal legal requirements. Sometimes sidewalks are simply inexistent; in certain areas, they are not wide enough for pedestrian use; or they lack elements such as pavement, gardening, lighting, and street furniture. In addition, sidewalks are rarely homogenous from a given sidewalk tract to the next, since sidewalks are built by landowners without following pre-defined standards. It was not until the late 1990s that the municipal government started to develop a number of projects focusing on street maintenance and sidewalk renovation in the tourist zone, in an attempt to overcome this situation and improve the image of the city and its public spaces.

Efforts have been made by the municipal government to encourage the standardization of sidewalks. To a large extent, this initiative resulted from concerns about barriers to disabled people's mobility. In 2009 a document with guidelines for the construction of accessible sidewalks was elaborated by a group of SMDU's and IPUF's engineers, including requirements such as the construction of curb ramps and usage of red tactile paving stones.<sup>289</sup> Since then, landowners are required to construct and redevelop the sidewalks contiguous to their property according to these norms.<sup>290</sup> Figure 53, for instance, shows renovation projects in progress on a tract of sidewalk in downtown. Standardization of already existent sidewalks is not compulsory; that is, municipal inspectors have means to compel landowners to follow legal norms concerning sidewalk accessibility only in the case of new building projects.<sup>291</sup>

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<sup>286</sup> See Art. 84, *Master Plan for the Island's Beach Villages*; and Art. 126, *City's Master Plan*.

<sup>287</sup> See Arts. 27, 44, and 46, *City Code of Conduct*.

<sup>288</sup> See Arts. 46 and 47, *City Code of Conduct*.

<sup>289</sup> See the *Accessibility Handbook*.

<sup>290</sup> See *Diário Catarinense*, 22 July 2009.

<sup>291</sup> See interview with a local authority (39-3).



**Figure 53 – Standardization of sidewalks on downtown streets**  
**Source: photographed by the author, 2011**

The municipal government also decided to start by example. For instance, in 2011 more than three kilometers of sidewalks on Beira-Mar Norte Avenue were totally redeveloped (see Figure 54). This costly renovation was made possible due to two factors. First, a private energy company was authorized to install new underground cables for electricity transmission under the avenue, and in compensation for such intervention financially contributed to the project.<sup>292</sup> Second, the municipal government took advantage of this window of opportunity and also invested financial resources aimed at enhancing public uses and the tourist potential of what was already a very busy public space. Another example of project financed by the city budget including sidewalk redevelopment transformed Hercílio Luz Avenue, where there were drainage ditches before, into a more pleasant boulevard. Similar interventions were carried out in other areas of the Historic Center and northern part of the island. According to a local authority, “We’re standardizing sidewalks in the Historic Center in order to have a more harmonious city, regardless of whether it is or isn’t the landowners’ responsibility.”<sup>293</sup>

As a government official put it, “It’s a landowner’s right to have whatever pavement he likes most in front of his house, provided that it’s

<sup>292</sup> See *Diário Catarinense*, 24 Feb. 2010.

<sup>293</sup> Interview with a local authority (34-2), my translation

accessible and adequate for public use.”<sup>294</sup> However, he also explained that, “Residents, when they see this standardization, also want to benefit from it because they realize that it’s more practical, and even less expensive. They call City Hall, ask about the paving stones being used and where they can be bought, and start to follow the model. Today there are many sidewalks of this kind being built across the city. It’s like I said, residents want to follow City Hall’s standard, but it’s not mandatory.”<sup>295</sup> The sidewalk standardization policy somehow relies on the idea of guiding residents’ behavior by means of social norms combined to legal norms. That is, giving the example is a way to persuade landowners to promote sidewalk redevelopment. This is the reason why this policy includes sidewalk renovation in front of government buildings,<sup>296</sup> as well as emblematic interventions such as Beira-Mar Norte Avenue.



**Figure 54 – Sidewalk renovation project on Beira-Mar Norte Avenue**  
Source: photographed by the author, 2011

Similarly to what happens in relation to the provision of street maintenance services such as cleaning, sweeping, gardening, and pruning, the action of the municipal government concerning sidewalk redevelopment is very much focused on the tourist zone, both in the case

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<sup>294</sup> Interview with a local authority (34-3), my translation.

<sup>295</sup> Interview with a local authority (34-2), my translation.

<sup>296</sup> See *Notícias do Dia*, 09 Dec. 2010.



of direct interventions and law enforcement efforts. For example, there are no policies directed at neighborhoods where residents are more unlikely to be able to afford the cost of renovating the sidewalks. In addition, integral regularization and urbanization programs in squatter settlements, like the one being implemented in Morro da Cruz hills, seldom involve the construction of sidewalks or the provision of street maintenance services, despite including basic infrastructure items such as running water, electricity, sewage, and drainage.

Although government officials are reluctant to recognize that they follow an ideological norm stating that priority should be given to the tourist zone, numerous differences between the tourist and the non-tourist zone can be easily detected in relation to street maintenance. They are partly explainable due to the legal norms making landowners responsible for constructing, repairing, and maintaining sidewalks. When sidewalks are spaces dependent upon landowners' actions and resources rather than upon the state's actions and resources, upper class neighborhoods are more likely to have better sidewalks than neighborhoods inhabited by the poor. Another part of this explanation relies on the action of the state itself. It not only refrains from counterbalancing patterns of uneven development concerning street maintenance, but also reinforces them by privileging investment in the tourist zone to the detriment of neighborhoods in the city with much more pressing needs.

#### *7.4.4 Square Redevelopment Projects*

In spite of real estate developers being legally required to reserve space for green and leisure areas whenever subdivisions of land take place, public spaces of this kind are rare in Florianopolis' middle-class residential neighborhoods. Squatter settlements lack of squares and parks is even more severe and difficult to revert, due to how they were developed. However, a significant number of squares and parks can be found in the tourist zone. As soon as a square or park is created or redeveloped, public administration agencies at the municipal level are expected to provide maintenance services. SMDU and IPUF are involved in the process of designing squares and parks, while the Public Works Department, FLORAM, and COMCAP are responsible for everyday maintenance services such as street furniture conservation, sweeping, gardening, and pruning.

Nonetheless, local authorities frequently claim that the municipal government does not have enough resources to invest in square and park

redevelopment projects and maintenance services throughout the entire city. Public-private partnerships have been seen by government officials as a possible solution to save the scarce resources of the municipal budget and bring additional benefits to the population. As early as 1987, the City Council passed the *Public Space Adoption Program Ordinance*, authorizing the municipal government to make agreements with private and public companies and entities to collaborate in the improvement, repairing, and maintenance of squares, parks, and gardens. The program was abandoned for quite a while and some expected outcomes were achieved only since 2007, when the non-governmental organization FloripAmanhã began to play a major role as a social actor in the program.

FloripAmanhã was created in 2005 by some of the city's most relevant tourism industry companies and businessmen, with the declared purpose of intervening in urban policies. According to one of its founders, it was an initiative aimed at "[...] demystifying the incorrect idea that tourism causes negative impacts, first to the environment, and second to the population itself."<sup>297</sup> Unlike the vast majority of non-governmental organizations in Florianópolis, it counts on a professional staff and access to considerable funding sources, in addition to maintaining close relationships with social groups of great economic power at the local level. Not surprisingly, it has quickly succeeded in establishing partnerships with the center-right political coalition in charge of the municipal government, with the idea of restarting the Public Space Adoption Program on the basis of these shared efforts. In short, FloripAmanhã serves as an intermediary between potential adopting companies or entities and FLORAM,<sup>298</sup> which is the public administration agency responsible for managing the program.

The procedure is quite simple. Formal adoption agreements are signed between FLORAM and the adopting company or entity interested in taking responsibility for a square, park, or garden. These documents contain norms about the length of the agreement, delimitation of the adopted space, and each party's responsibilities. The adopting institution may take responsibility for completely redeveloping or simply assuming the maintenance tasks in relation to the adopted space. This may include the elaboration of landscape design projects, construction work, street furniture installation, and payment of employees for executing cleaning, sweeping, gardening, and pruning

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<sup>297</sup> Interview with a tourist industry member (41-1), my translation.

<sup>298</sup> See interview with a local authority (39-4).

services. However, quite often some of these services and interventions remain in the hands of the municipal government, which is also responsible for evaluating landscape design projects and supervising the fulfillment of the obligations assumed by adopting institutions.

Brand promotion strategies and concerns about corporate social and environmental responsibility are among the factors driving private entities to invest in the Public Space Adoption Program. As a local authority commented, “We authorize them to display their logos and put some signs with specific dimensions there. Thus, people can see that the adopting company is environment friendly. [...] There are so many other advertisement options, and these are well situated companies, so it’s more a way to give back a little of what they get from the city.”<sup>299</sup> Another government official complemented, “This is a gain for the adopting company, for its image. [...] Making an agreement with City Hall to revitalize a public space is something that shows responsibility towards the city, it’s a social responsibility project.”<sup>300</sup> Nevertheless, local authorities also recognize that private companies on occasions are willing to adopt public spaces because they foresee more direct gains. For instance, an adoption agreement might be a compensation for the concession of additional building rights to real estate developers. Also, it might be a company’s strategy to promote changes in the surroundings of a new real estate development in order to increase its market value.

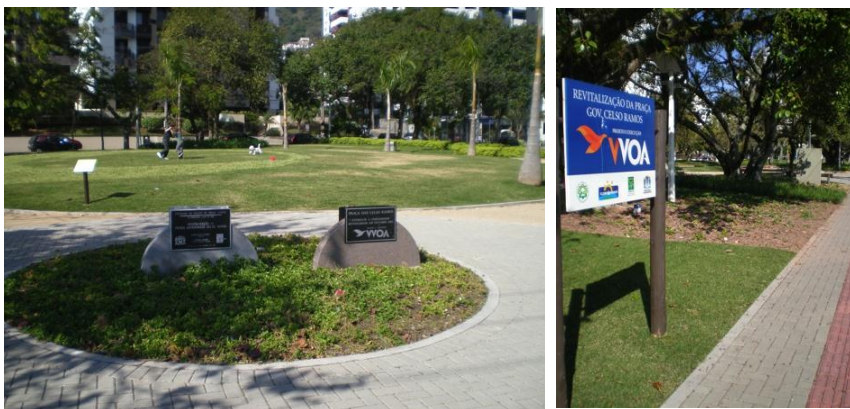
All these benefits for the adopting company can be seen in the case of Celso Ramos Plaza, the most emblematic project connected to the Public Space Adoption Program thus far. This square, located in the tourist zone, was redeveloped in 2010 (see Figure 55) thanks to an adoption agreement intermediated by FloripAmanhã. The agreement was signed between FLORAM and a real estate company that was constructing luxury buildings nearby. It was also supported by a fourth actor, the Neighbors and Friends of Celso Ramos Plaza Association (AMAPRACA). The real estate company completely redesigned Celso Ramos Plaza, introducing innovations like sidewalk standardization, sophisticated gardening and lighting, and street furniture such as outdoor gym equipment, game tables, bicycle racks, and a children’s playground. The changes not only affected the physical environment, but also the public of users. As government officials highlighted, “It was an abandoned plaza before, ‘the people from the hill’ [Morro da Cruz’ squatter settlements’ dwellers] used to come there. Now that’s over, it

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<sup>299</sup> Interview with a local authority (36-2), my translation.

<sup>300</sup> Interview with a local authority (32-3), my translation.

really looks like a plaza;”<sup>301</sup> “Celso Ramos Plaza was an abandoned place. Today you can take your children, your mother, your girlfriend there and spend the day in a very pleasant place just in front of Beira-Mar Norte Avenue.”<sup>302</sup>



**Figure 55 – Celso Ramos Plaza redevelopment**  
**Source: photographed by the author, 2011**

It is estimated that there are one hundred adopted public spaces in Florianópolis. Plaza XV de Novembro and the pedestrian area between the Municipal Market and Old Customs House, both in the core of the Historic Center, are other successful cases of redeveloped spaces often mentioned by local authorities. However, the municipal government finds it difficult to sign satisfactory adoption agreements with private companies concerning the redevelopment and maintenance of very busy squares and parks of great importance to the city’s everyday life, such as Getúlio Vargas Plaza and da Luz Park downtown; the main plaza of the Trindade neighborhood, next to UFSC campus; and Coqueiros Park, on the continental peninsula. First, because local residents take part in the decision-making process and often resist the idea of parks and squares being redesigned according to private companies’ interests. Second, because they are all places that do not belong to the tourist zone.

As a local authority put it, “There is no interest in the adoption of these places because they do not have the same visibility.”<sup>303</sup> Only in exceptional cases does an adoption agreement related to a place situated

<sup>301</sup> Interview with a local authority (37-2), my translation.

<sup>302</sup> Interview with a local authority (39-4), my translation.

<sup>303</sup> Interview with a local authority (39-4), my translation.

in an unprivileged neighborhood make sense for a local company as a branding strategy. This results in a highly selective adoption program, in the sense that special attention is given to the tourist zone to the detriment of the non-tourist zone. Thus, there is an ideological norm embedded in its conception and implementation that prevails in terms of guiding local authorities' action. Indeed, the *Public Space Adoption Program Ordinance* not only refrains from establishing adequate resident participation mechanisms, but also does not refer to incentives of any kind that could really contribute towards a more balanced distribution of investments for the improvement of squares and parks between the different zones of the city.

#### *7.4.5 Social Norms and Social Groups*

The analysis of concrete examples of social conflicts over public spaces shows that not only social groups take social norms into account, but public administration agencies as well. For instance, social norms about the organization of street protests deviate substantially from legal norms, and this affects the response of police force to the actions of political activists. Also, the sidewalk standardization policy in Florianopolis illustrates how the municipal government acts in order to encourage certain practices to become customary among local residents as a matter of social norms, in a context in which achieving a determinate goal through legal norms is not possible. Finally, spatial tactics used by local authorities to deal with street vending rely to a great extent on the replacement of social norms guiding street vendors' territorial strategies by legal norms that actually limit their ability to be flexible and mobile. In all these examples of conflicts over public spaces, social norms prove to be somehow associated to patterns of uneven development. Social norms, as much as legal and ideological norms, play a decisive role in the exclusion of particular social groups' actions and discourses from public spaces.

#### *7.5 Concluding Remarks*

In this case study, I provided a contextualized and empirically grounded argument about the interconnections between tourism and norms regulating public spaces in the case of the tourist city of Florianopolis. As I have shown, patterns of uneven development are not only observable in respect to private spaces, but also in respect to its streets, plazas, parks, and beaches. They have been historically produced

due to the tourist model of urban development adopted over the past decades. Indeed, Florianopolis' urbanization process is deeply marked by the tourism monoculture. This has resulted in a tourist city divided into a tourist and a non-tourist zone. Despite of recent economic changes related to the rise of information technology, this model of development continues to be reproduced daily with regard to public spaces. Nonetheless, such an urbanization process is not only a matter of economy, or politics of space. It is also a process characterized by its normative dimension, because norms mediate space production.

Differences in regulation between the tourist and the non-tourist zone result from the conflicting interplay of social and legal practices with ideological, legal, and social norms. On the one hand, the access of groups of users such as street vendors and political activists to public space is controlled and even made illegal by public administration agencies through the use of a series of spatial tactics and spatial zoning mechanisms that are influenced by tourist representations of space. Street vendors and political activists also fight back on occasions, making claims for inclusion. Nonetheless, their interests are undermined by the combination of ideological norms and legal norms with legal practices. The tourism industry is the economic sector that most benefits from the exclusion of these social groups' actions and discourses. On the other hand, strategies for the promotion of public uses have been implemented, such as a sidewalk renovation program and a public space adoption program. Yet, these initiatives thus far have not contributed to counterbalance patterns of uneven development; instead, they simply reinforced them by following the ideological norm suggesting that priority in the investment of public resources must be given to Florianopolis' tourist zone.



## **PART III**

### **PUBLIC SPACE REGULATION REVISITED:**

#### **A CROSS-CASE ANALYSIS**





## CHAPTER 8

### **Spatializing Norms:**

### **On Jurisdictions, Zones, and Territories**

Evidence from the three case studies that were discussed in Part II shows that space must be taken seriously if one seeks a deeper understanding of norms and normative action in society. The case studies of Acapulco, San Sebastian, and Florianopolis illustrate first and foremost the interplay of social practices with legal norms, legal practices, and social norms. Social struggles determine the normative and spatial ways through which urban public spaces are contested and negotiated in everyday life. Agreed forms of regulation are rarely possible, since multiple social groups' interests collide. Normativity and spatiality, each understood as social dimensions, are always intertwined. Over the last two decades, this fundamental insight has been encouraging socio-legal scholarship in the field of legal geography. Yet, the theorization of the mutually constitutive connections between law and space still lacks consistency. There have been calls for "a conceptual language that allows us to think beyond binary categories such as 'space' and 'law'" (Blomley, 2003b: 30) and at least one productive attempt to offer a remedy "that promises to dissolve the inherent dichotomization – and dichotomizing effects – of this formulation" (Delaney, 2010: 8).<sup>304</sup>

The cases studied in this doctoral dissertation suggest that at least some degree of analytical consistency can be achieved by relying on a fairly sophisticated triad of conceptual pairs for grasping the norms-space nexus: legal norms, legal practices, and social norms, on the one side; and jurisdictional spaces, spatial zoning, and territorial spaces, on the other. Indeed, this set of conceptual pairs provides analytical categories that grasp the two-way relationship between law and space, which are useful for theorizing the spatiality of norms and normative action concerning public spaces. This chapter is divided into three main sections. Each section explores a given conceptual pair by presenting the main empirical findings of the case studies and a brief analysis of their

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<sup>304</sup> David Delaney, a major proponent of legal geography, is also convinced that "it is more productive to develop a distinct set of interpretative resources – a new vocabulary – in order to impede the tendency toward dichotomization" (Delaney, 2010: 24). In a recent attempt in this direction, he developed a sophisticated conceptual framework and introduced the neologisms "nomosphere" and "nomoscapes" (see Delaney, 2010). Although this search for a new language is of great interest, at the present I have found it difficult to incorporate such an apparatus into the empirical study and theorization of public space regulation.

theoretical implications in light of legal geography literature. Section 8.1 explores the first conceptual pair, legal norms and jurisdictional spaces. In section 8.2, I analyze the interrelations between legal practices and spatial zoning, which is the second conceptual pair identified. Finally, in section 8.3, I discuss the intersections between social norms and territorial spaces, the third conceptual pair.

### ***8.1 Legal Norms and Jurisdictional Spaces***

From the narrative concerning the regulation of public spaces in Acapulco, two main jurisdictional spaces can be distinguished. On the one hand, there is the Federal Maritime Terrestrial Zone and on the other, the Municipality of Acapulco. Both are state jurisdictions in Mexico, formally defined by legal norms originating from different governmental levels. In the case of the first, the relevant norm-making process occurs at the federal level. The legal norms found in the *National Property Act* defined that the 20 meter-wide strip of passable firm land parallel to the coastline is part of the nation's patrimony. Consequently, beaches are under jurisdiction of the Mexican federal government. In the case of the Municipality of Acapulco, the precise boundaries of the jurisdiction are defined by legal norms enacted at lower governmental levels. If the maps of Federal Maritime Terrestrial Zone and Municipality of Acapulco are compared, it can be verified that these jurisdictional spaces are partly overlapping, that is, the former includes an area also covered by the latter. Nonetheless, for the specific aim of regulating street vending, legal norms are officially interpreted within Mexico's legal system in such a way that results in their conversion into contiguous jurisdictions, subjected to the control of distinct public administration agencies.

The jurisdiction of public administration agencies does not always coincide with the entire urban perimeter. More limited geographical areas such as Federal Maritime Terrestrial Zone, Diamond Acapulco, and Papagayo Park exist. The fact that there are multiple jurisdictional spaces has led to recurrent conflicts between public administration agencies and persistent enforcement problems. Conflicts of this kind are more frequent in Acapulco than in San Sebastian and Florianopolis, where agencies tend to have jurisdictional powers over the entire municipality. The creation of agencies that are in charge of jurisdictional spaces smaller than the municipal perimeter may also interfere in the allocation of resources for the promotion of public uses. In Florianopolis, the continental peninsula is regarded as a jurisdictional

space separate from Santa Catarina Island, which affects the performance of tasks involving street maintenance. Furthermore, conflicts such as the ‘battle of flags’ in San Sebastian exemplify how important jurisdictions are as power resources. The Spanish flag flies in front of the Spanish Naval Command because this building is under the control of the Spanish national state, while Basque flags are displayed at Mount Urgull because the municipal government has jurisdictional powers over that area. The issue about which flags should fly above the City Hall building can also be interpreted, thus, as a conflict of jurisdiction.

In the cases of San Sebastian and Florianopolis there is a different, but no less important issue concerning jurisdictions. The spatiality of social practices in everyday life often transcends the boundaries of basic administrative units such as municipalities. Indeed, these cities are at the center of metropolitan areas. This means that neighboring municipalities, such as the cities of Pasaia and São José, respectively, are jurisdictional spaces outside of the scope of San Sebastian and Florianopolis’ local authorities. For instance, the treatment given to street vendors on the two sidewalks of Azkuene Street is not necessarily identical. Similarly, street vendors that cross the boundaries between Florianopolis and São José may be subjected to different legal norms, which are valid only within the limits of each city. Unlike street vendors, law enforcement agents cannot simply cross the municipal boundaries to apply legal sanctions; according to legal norms, they are powerless outside their own jurisdictional spaces.

Legal norms operate through the establishment of rigid and precise boundaries defining countries, provinces, and municipalities, but also other spatial divisions organizing the government, such as Mexico’s Federal Maritime Terrestrial Zone. From a theoretical standpoint, these examples illustrate how a given state, through its legislative agencies at different governmental levels, settles legal norms that are valid only within the boundaries of specific jurisdictional spaces. Legal norms essentially consist of socially reproduced instructions imperatively guiding social behavior. They can be distinguished from other types of norms because they are state-made norms, explicitly articulated and formalized by means of official documents such as statutory texts and judicial decisions. This body of norms is reproduced within the legal system, which consists of a highly complex arena including a wide range of public administration agencies. Allegations of non-compliance can ultimately be submitted for judicial consideration and the sanctions applied to violators are backed by the coercive force of the state. In any

case, jurisdictional spaces are essential in framing social expectations about the geographical boundaries of state action.

Legal norms and jurisdictional spaces exist as a conceptual pair. Jurisdictional spaces are better conceptualized as a collection of legal norms emanating from the state, representing an abstract area with the deliberate purpose of organizing the exercise of its powers. For this reason, jurisdictions can, to a certain extent, be considered an arbitrary creation of governmental institutions. They are mainly policy-making tools for the sake of administrative convenience. As such, they can also be abolished by means of formal agreements and the enactment of statutory texts. According to an influential account in the field of legal geography (Ford, 1998), there are three basic characteristics that apply to the concept of jurisdictional spaces. First, a “jurisdiction categorizes the elements over which authority is to be exercised primarily by area, and secondarily, if at all, by type” (Ford, 1998: 852). Second, the boundaries of a jurisdiction “are not ambiguous or contested except in anomalous cases or in times of crisis or transition. If ambiguity arises, it is usually a source of concern and embarrassment and is settled as quickly as possible. The geographic boundaries of a jurisdiction are a ‘bright line’ rule, never a flexible standard” (Ford, 1998: 852-853). Third, a jurisdiction is conceptually empty, abstract and homogenous, “the space of a jurisdiction is conceived of independently of any specific attribute of that space” (Ford, 1998: 853).

Jurisdictions are discursive constructs that may precede legal practice and social practice and can even change dramatically from time to time. That is, they are representations of space. Arguably, the existence of jurisdictional spaces seems to be a timeless, natural, and inevitable feature of social life, but to a large extent they are a modern invention historically (Ford, 1998: 929). Jurisdictions consist of mental models conceived with the purpose of orienting legal practices in everyday life. The learning-process of individuals and groups in respect to jurisdictions is mainly based on verbal and graphical descriptions. Although other representations of space are possible, “most refers to maps, such as the notation in a treaty between nations that refers to a cartographic grid of latitude and longitude, or the language in a property title that refers to an official chart of plots” (Ford, 1998: 853). Without a doubt, the advent of cartography contributed enormously to making gapless maps of contiguous jurisdictional spaces that are today so familiar to bureaucrats around the world possible.

## 8.2. Legal Practices and Spatial Zoning

As the case study of Acapulco suggests, public administration agencies rely on mechanisms of spatial zoning for enforcing legal norms. For instance, there is tolerance towards street vendors across the city, except in the tourist zone. Street vending is managed and controlled by means zoning districts because outlawing it altogether is out of the question. Government officials are aware that street vending is considered a socially legitimate economic activity, a normal rather than an exceptional behavior in Mexico. Even if local authorities decided that eradicating street vending was a worthwhile goal, they would be unlikely to succeed, due to the fact that they lack the material means for making such a decision effective. Their resources are far from sufficient to meet what is required for successfully controlling such an activity throughout the urban perimeter. Besides, government officials believe that there are enough reasons – for example, the ordered tourist image, the flow of vehicle traffic, and the lobby of off-street merchants – to concentrate the enforcement actions in the tourist zone to the detriment of other areas. The state's repressive action is not the same everywhere in Acapulco. The zoning district formally established by the *Policing and Governance Ordinance* simply gives official status to ongoing legal practices.

In addition, legal practices often vary spatially as a result of the use of spatial tactics.<sup>305</sup> They are usually associated with low-ranking, very specific, and directly enforceable legal norms. For instance, in the case of San Sebastian, the Department of Interior has decided to displace demonstrations from the tourist zone to the non-tourist zone by means of simple administrative resolutions. Also in the case of the Basque city, the *List of Technical Specifications*, which is an administrative contract between the municipal government and a private company, serves as a mechanism for the allocation of public resources. It divided the urban perimeter into three different sections making different requirements concerning the frequency and intensity of street

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<sup>305</sup> Analyzing restrictions on the place where expression may occur in the context of the United States, Timothy Zick argues that, "Street, sidewalks, and other public spaces are increasingly subject to spatial tactics, the utilization of space for social and political control" (2006: 651). According to him, "[...] the sorts of cages, zones, and pens that have appeared of late involve an altogether different strain of spatial restriction. Here the state has moving from regulating place to actually, in some cases, creating places for the express purpose of controlling and disciplining protest and dissent. This sort of spatial sophistication is a recent phenomenon. It represent a new generation of spatial regulations. Governments have learned to manipulate geography [...]" (2006: 581).

maintenance services. In the case of Florianopolis, the municipal government combined a permit system with spatial tactics to deal with street vending, without changing the legislation. Calls for applications for temporary street vending permits started to be regularly issued, with additional norms that actually limit licenses to selected places in the city. Spatial tactics have also been used in Florianopolis to legitimize the violent dispersion of demonstrators from sites such as the bridges and main tourist avenues. They are resultant from judicial orders and recommendations released by public prosecutors rather than directly derived from the content of statutory texts.

The findings from the case studies show that the implementation and enforcement of legal norms is far from being identical throughout the urban perimeter. Such spatial variability of legal practices within the interior space of the city is frequently seen by government officials as a means of balancing individual interests against collective interests. For instance, in the case of Acapulco, the declared reasons for delineating zoning districts to deal with street vending and political activism are associated with the goal of balancing the right to work and the right to protest with the needs of keeping both an ordered tourist image and the traffic flowing on the streets. But legal practices may vary spatially even when municipal ordinances do not establish any kind of spatial zoning mechanism concerning the management of public spaces. For example, in the case of San Sebastian the gap between what is written in the *Civic Responsibility and Protection of the Urban Landscape Ordinance* and the way it is enforced already allows a margin of maneuver through which Municipal Police officers can assure that certain social groups will be targeted rather than random misbehaved individuals and at the same time makes it possible to select the public spaces where behavior will be more strictly controlled.

Thanks to the work of pioneers, such as Roscoe Pound, for nearly a century now, socio-legal scholars claim that “If we look closely, distinctions between law in the books and law in action, between the rules that purport to govern the relations of man and man and those that in fact govern them, will appear” (Pound, 1910: 15). The abstract content of the statutory texts enacted by law-making bodies often contrasts with the concretized enforcement actions of public administration agencies in everyday life. Since the exercise of the state’s police power allows for a margin of discretion, there is a degree of discrepancy, narrow or wider, between legal norms and legal practices. Legal norms applied to a jurisdictional space are likely to be unevenly enforced and implemented by public administration agencies within its

boundaries, with people changing their understandings about what is appropriate behavior according to the actual functioning of the mechanisms of spatial zoning. Indeed, legal practices are characterized by a high degree of spatial selectivity. The spatiality associated with this lack of correspondence between legal norms and legal practices is one of the aspects that merit more careful analysis in socio-legal scholarship.

Spatial zoning and legal practices function as a conceptual pair. Law enforcement officers from public administration agencies may benefit directly from demarcating lines, coordinate grids, and other cartographic techniques to learn about the exact configuration of their jurisdictional spaces, responding accordingly to the task of making these abstract representations a concrete part of everyday life. But this is not the case with spatial zoning. On the contrary, it is often based on geography defined by concrete landmarks, determined in narrative terms. Maps, if existent, are merely of a schematic kind, because space is understood by the name of places, in much more concrete, less precise, and flexible terms. For instance, the tourist zone is a substantial zone, not a formal one. It is the area of the city being sold for tourist consumption, within which the tourist attractions are situated and where the majority of the visitors who arrive in the city actually circulate. The borders between the tourist and non-tourist zone are better known through the influence of the descriptions found in tourist materials rather than by means of any graphical or written descriptions provided in the municipal legislation.

Legal practices are to a large extent about the action of the members of public administration agencies who are officially authorized to use coercive means in order to obtain compliance with legal norms. For example, the official mechanisms for enforcing legal norms for street vending are diverse and very bureaucratic in character, ranging from the possibility of asking someone to 'move on' from a certain place, seizing their merchandise, imposing fines or arresting transgressors. A considerable margin of maneuver is involved in the normative action of government officials. This means that the legal practices of local authorities are, in fact, much more matters of negotiating, making agreements, being more or less tolerant towards individual and collective situations, mediating between the interests of distinct groups, and displacing social practices from certain places to others. To be sure, the spatiality of legal practices can be mapped as much as the spatiality of any social practice. But this mapping assumes special importance, as it reveals a great deal about the extent to which the action of the state is capable of influencing social practice.



### 8.3 Social Norms and Territorial Spaces

The case of Acapulco illustrates the role of social norms that arise within informal communities to support the livelihoods of their members in a context in which the state can neither cope with enforcement demands nor provide for the most basic needs of people. Over the years, strong organizations of street vendors have settled social norms governing the appropriation of certain territories in the city by their members. Organized street vendors are able to work against legal norms without fear of being sanctioned, by creating and defending spaces for themselves where a different normativity operates. These territorial spaces, which spread like islands of self-regulation across the urban perimeter, are to a large extent respected by the authorities, who consider these organizations to be powerful enough to create social unrest if enforcement efforts are taken. Social norms are of unequivocal importance as tools for the internal cohesion of communities and as means of controlling the territories that are used to carry out street vending. Nevertheless, from the standpoint of unorganized street vendors, social norms play a much more ambiguous role, and can also be perceived as exclusionary. They also fight for the right to work freely on the streets without fearing either the official control exercised by the state or the unofficial control imposed by street vendor organizations.

But the ability of social groups to make use of social norms to assume control over territories is not the same in all settings. As I have shown, street vendors in San Sebastian have not succeeded in organizing themselves in order to develop norms of this kind. They have been unable thus far, to effectively resist against the repressive action of the state and are now excluded from the city. The *izquierda abertzale*, on the other hand, is a powerful social group that controls territories right in the middle of the tourist zone. Not surprisingly, government officials take social norms associated with the action of political activists seriously. In the case of San Sebastian, the action of neighborhood associations has also been crucial to the creation of social norms regarding the quality standard required for public spaces. The customary use of the hexagonal grey and white stones on sidewalks constitutes one of the best examples of the importance of social norms and the way they become territorialized.

The case study of Florianopolis suggests that not only do social groups take social norms into account, but public administration agencies do as well. Social norms about the organization of street protests deviate substantially from legal norms, and this affects the

response of the police force to political activists' actions. Also, the sidewalk standardization policy in Florianopolis illustrates how the municipal government acts in order to encourage certain practices to become customary among local residents as a matter of social norms, in a context in which achieving a determinate goal through legal norms is not possible. Finally, spatial tactics used by local authorities to deal with street vending rely to a great extent on the replacement of social norms guiding street vendors' territorial strategies through legal norms that actually limit their ability to be flexible and mobile. Social norms, as much as legal norms, play a decisive role in the exclusion of particular social groups' actions and discourses from public spaces.

Socio-legal scholars have long been accustomed to distinguishing between legal and social norms.<sup>306</sup> One key issue of debate in sociology of law is how social order is upheld in the absence of, or despite legal norms, a discussion akin to the broader debate over legal pluralism. Indeed, there can be normative order without explicitly formulated and institutionalized norms (see, for instance, Macaulay, 1963; Ellickson, 1991). In particular, there is plenty of evidence confirming that close-knit communities develop a sense of membership and regulate themselves through social norms guiding the behavior of their members. The concept of social norms is therefore closely associated with communities with tight-knit relationships such as the family, workplace, neighborhood, and religious congregation. Individuals tend to follow certain social norms, because they know that their actions are subject to the approval and disapproval of the communities to which they belong. The enforcement of social norms is diffuse, the sanctions typically affect only an individual or a small group of individuals within the community, and gross violations may ultimately result in membership rejection and exclusion.

Social norms and territorial spaces also work as a conceptual pair. Communities that aim to present themselves as controlling the occupation of a territory must establish a set of distinctive social norms for monitoring their boundaries. Territorial spaces with more or less precise boundaries are defined and organized concretely, not abstractly, through daily practices of norm-setting and norm-enforcement within communitarian organizations. The social norms determine "who socially belongs in a space and who is therefore transgressive" (Staeheli & Mitchell, 2008a: 148). Therefore, social norms are fundamentally about the normative action of geographically-based communities. The identity

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<sup>306</sup> This can be tracked back to Eugen Ehrlich's theory of the living law (Ehrlich, 2001).

of a community is often dependent upon claims of autonomy, separateness, self-determination, and cultural preservation. The community's social power relies on its ability to exercise control over a territory that is culturally or economically significant for its members. Membership in a community is presumably denied unless expressly granted, because there is a need to control who belongs to an organized group in order to preserve the specific interests of its members. Since social norms also affect insiders and outsiders unevenly, the question of how a community is defined is of crucial importance.

Conflicting and unequal relationships permeate social norms, communities, and territorial spaces. Legal geographers have emphasized that "[social] norms and definitions of community are rarely critically examined or collectively agreed upon; more often, they are simply asserted" (Staeheli & Mitchell, 2008a: 148). In addition, assertions about who belongs to a community are frequently backed by the state's police power and cannot be isolated from the exercise of political and economic power by groups and individuals (Staeheli & Mitchell, 2008a: 148). As the example of street vending in Acapulco suggests, social norms are a source of exclusion when seen from the perspective of outsiders, that is, from the standpoint of unorganized street vendors, as much as from the standpoint of other local residents. Not surprisingly, research in the field of legal geography found that territorial spaces might be seen as attempts "to create a private or communal domain [...] at the expense of other communities (and of community in general)" (Copper, 1996: 535). Therefore, the implications of social norms and territorial spaces as counter-hegemonic ways of spatializing normative action cannot be taken for granted. They can neither be simply condemned as oppressive forms of order without law, nor celebrated as emancipatory forms of collective action. Instead, they must be critically addressed, focusing on their intersections with the hegemonic spatiality represented by legal norms and legal practices.

#### ***8.4 Theorizing the Norms-Space Nexus***

In this chapter I engaged with a fairly sophisticated set of analytical tools in order to theorize the norms-space nexus in respect to public space regulation: legal norms and jurisdictional spaces, legal practices and spatial zoning, social norms and territorial spaces. This set of operational categories provides a triad of conceptual pairs of unequivocal utility for grasping the two-way relationship between norms and space. Such a framework for studying the spatiality of norms

and normative action was empirically grounded on the discussion of the findings from case studies about public space regulation in the cities of Acapulco, San Sebastian, and Florianopolis. Moreover, it was theoretically informed by revisiting relevant interpretations from the scholarship in legal geography, a relatively new but promising field within sociology of law.

There is, however, another operational category that was introduced by this doctoral dissertation with the express purpose of analyzing public space regulation in tourist cities. As I have shown, ideological norms also need to be spatialized, as they are associated to tourist representations of space. The interplay of social practices with legal norms, legal practices, and social norms is also influenced by ideological norms. In the next chapters, therefore, I expand my argument about the importance of the ideological norms of the tourist city to the configuration of patterns of uneven development and spatial injustices. I argue that the differential regulation between the tourist and the non-tourist zone results into public spaces that can be described metaphorically as 'postcards of exclusion' and 'places off the map'.



## **CHAPTER 9**

### **Postcards of Exclusion:**

#### **The Selective Control of the Public**

In the previous chapter, through a theoretical interpretation of the findings of the case studies, I elaborated on the spatiality that characterizes legal norms, legal practices, and social norms. I presented the concepts of jurisdictional spaces, spatial zones, and territorial spaces as useful theoretical tools for analyzing norms and normative action. I argued that they influence and at the same time respond to the spatial practice of different social groups in everyday life. Thus, they are relevant conceptual pairs to understand public space regulation. Nonetheless, I also introduced throughout this dissertation another socio-legal category with the specific purpose of analyzing public space regulation, the concept of ideological norms. Thus the question remains, can the ideological norms of the tourist city be spatialized as well? How do ideological norms influence the legal norms, legal practices, and social norms that regulate public spaces in the tourist city?

Previously in the present study when the theory of norms was discussed, the concept of normative action was defined as behavior driven by norms about the right thing to do (Therborn, 2002: 864), while a norm was understood as a behavioral guide that under similar circumstances gives rise to repeated actions (Hydén, 2004: 6). The essential attributes of norms were stressed, namely that they are socially reproduced imperatives that reflect social actors' perceptions of the surrounding expectations regarding their own behavior (Hydén & Svensson, 2008: 134-137). In addition, three types of norms were distinguished, ideological, legal, and social norms. More specifically, I defined the concept of ideological norm as a theoretical tool that grasps how ideologies influence normative action in society. I also mentioned that ideological norms are reproduced in the arena of mass culture and technical knowledge and that their content can be communicated and articulated in explicit terms, even if they appear as informal, non-institutionalized, and unwritten normative statements.

Based on evidence from the cases studied in Part II, I suggested that ideological norms are indirect mechanisms through which the tourism industry influences local authorities' actions in the tourist city. I identified two ideological norms that are of crucial importance regarding public space regulation. First, I claimed that there is an ideological norm stating that the actions and discourses most profitable to the tourism industry shall be encouraged by public administration agencies in the

tourist zone and the less profitable ones discouraged. Secondly, I claimed that there is another ideological norm that says that financial and non-financial resources shall be addressed by public administration agencies with priority to the places situated in the tourist zone. Government officials expect the city to be sanctioned by attracting less visitors and tourists of lower consumption potential if they do not take these ideological norms into account. Furthermore, I argued that there is a relationship between ideological norms and representations of space, as they arise within the process of conceiving tourist representations. As I have shown, the images reproduced by artifacts such as tourist postcards and maps are constitutive of normative expectations that surround social actors' behavior.

In this chapter and the following one, I depart from this point to elaborate two original ideas, the concepts of 'postcards of exclusion' and 'places off the map'. I believe that they are attractive conceptual tropes for describing and analyzing patterns of uneven development and spatial injustices concerning public spaces in the tourist city. Below I will elaborate on the first trope, 'postcards of exclusion', which is closely associated to the state's repressive role and influenced by ideological norms concerning the selective control of the public. In section 9.1, I explain the passage from the idea of a postcard as an artifact to its metaphorical meaning. In section 9.2, I draw from the case studies and, more specifically, from the analysis of street vending and political activism as themes of conflict over public spaces to give examples of particular social groups' actions and discourses that are discouraged, controlled, and repressed in the tourist zone. Finally, in section 9.3, I expand my argument about the differences in terms of public space regulation that exist between the tourist and non-tourist zone due to the ways which the public is controlled by the state.

### ***9.1 Postcard, from the Artifact to the Metaphor***

The postcard is one of the most popular tourist icons. The most well-known version of this artifact, which has been widely disseminated since the late 19th century, can be described as a rectangular piece of thick paper bearing a photograph of a tourist landscape or motif on the front and space for writing a message on the back that can be sent by mail without an envelope. For tourists, buying and sending postcards is a way to keep personal souvenirs of the sights on a trip, sharing their travels with family and friends at home, and signaling the genuineness of their tourist experiences to recipients. For the tourism industry,

besides being a direct source of profit, postcards function as markers of tourist attractions and also play a role in advertising destinations and anticipating tourist experiences (see Albers & James, 1988: 138; Markwick, 2001: 417-420; Cohen, 2007: 690). The images portrayed on postcards are taken by postcard photographers with the declared aim of attracting the tourist gaze.

Although “the photograph appears to be believable as a direct representation of reality, a ‘true’ reflection of actual places, people, and events” (Markwick, 2001:420), postcard images correspond to particular representations of space. Notwithstanding the fact that cameras record what is in front of their lens, “travel photographs are not simply reflections of the world as it appears but socially constructed and meaningful representations” (Albers & James, 1988: 140). As I have highlighted when discussing Lefebvre’s theory of the production of space, representations of space are manifestation of ideologies. They are semiotic abstractions capable of communicating normative messages through visual signs. This concept, thus, is connected to mental models conceived by dominant groups to influence spatial practice. As a means of exercising social power, representations of space are versions of the world that are constructed by hegemonic groups in society to emphasize spaces’ exchange values and maximize them on behalf of their own distinctive interests.

As the case studies demonstrated, tourist materials are useful sources of data to understand space production. In respect to tourist cities, the semiotic analysis of tourist postcard images makes the content of representations of space visible. “Tourist images are not objective nor transparent, but are produced within sites of struggle,” which means that “one needs to situate tourism representations politically, examine what they include and exclude, and expose whose interests they serve” (Mellinger, 1994: 776). In the analysis about how public spaces within the tourist zone are supposed to look, I verified that they are represented by postcard publishers in a very specific way. Although it is often difficult to differentiate between the visual signs on this kind of images, one aspect clearly stands out. In general, the presence of desirable signs and the absence of signs that could be considered unpleasant by potential visitors seem to be intrinsic and objective qualities of the places represented in the pictures. “The active signifying practices through which [...] photographers select, construct, and remake what is registered on film remain hidden from view” (Mellinger, 1994: 758).

As Lefebvre (1991, 96-97) once noticed, photography always fragments space and time: “Can images of this kind really be expected



to expose errors concerning space? Hardly. Where there is error or illusion, the image is more likely to secrete it and reinforce it than to reveal it. No matter how ‘beautiful’ they may be, such images belong to an incriminated ‘medium’. Where the error consists in a segmentation of space, moreover – and where the illusion consists in the failure to perceive this dismemberment – there is simply no possibility of any image rectifying the mistake. On the contrary, images fragment; they are themselves fragments of space. Cutting things up and rearranging them, *découpage* and *montage* – these are the alpha and omega of the art of image-making. As for error and illusion, they reside already in the artist’s eye and gaze, in the photographer’s lens, in the draftsman’s pencil and on his blank sheet of paper. Error insinuates itself into the very objects that the artist discerns, as into the sets of objects that he selects. Wherever there is illusion, the optical and visual world plays an integral and integrative, active and passive, part in it. It fetishizes abstraction and imposes it as the norm. It detaches the pure form from its impure content – from lived time, everyday time, and from bodies with their opacity and solidity, their warmth, their life and their death.”

Postcards are disappearing very fast as artifacts. Tourists now can easily take their own snap-shots with digital cameras. Symptomatically, postcards on sale today often display images taken from a bird’s-eye view that a common tourist would not be able to photograph. Nevertheless, postcard pictures continue to be reproduced in different formats, illustrating tourist materials such as tourist guides, travel magazines, wall posters, and tourist websites. They are also reproduced by tourists themselves who seek to take their own photos emulating postcard images. This means that postcards remain important in a more metaphorical way, as forms to choose whether or not to show something to an audience.<sup>307</sup> “Photographs not only formulate and institutionalize what tourists see and how they see it, but also how they know and understand what they see. Popular expressions such as ‘the camera does not lie’ or ‘pretty as a postcard’ signify the importance of photography as a standard of value and judgment in visual awareness” (Albers & James 1988: 136). Whatever the format these images take, postcard senders have usually somehow experienced the photographed space, while recipients have to trust the representation.

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<sup>307</sup> According to Larsson (2011: 61), “metaphors are tools (to use a metaphor) that explain or offer a way of understanding a phenomenon, for example, a type of event, a behavioral pattern or observable fact in the world in terms of a more familiar concept.” For a theoretical discussion about the role of metaphors in our thinking, see Lakoff and Johnson (1980).

Postcards are conceived and mass reproduced by the tourism industry according to its perception of the type of images that tourists want to buy. Such a statement may be obvious as far when it only concerns pictures printed on pieces of paper. But its consequences go much deeper if the concept of postcard is metaphorically extended to refer to the representations of space and their impact on the production of public spaces. Insofar as public spaces within the tourist zone are considered more profitable the more postcard-like they are, spatial practice may be seriously affected. They start to be managed in a way that tends to make them correspond to the representations of space conceived by the tourism industry, which leads to the exclusion of particular social groups' actions and discourses that do not fit in the pretty picture portrayed of the tourist city and its public spaces. The outcomes are public spaces characterized as 'postcards of exclusion'. These are public spaces where the actions and discourses privileged by the tourism industry are favored and the less profitable ones discouraged, controlled, and repressed by the state.

## ***9.2 Street Vending and Political Activism***

Street vending and political activism were analyzed in Part II of the present study as embedded themes regarding the state's repressive role in controlling the public. As I explained, street vendors are traders of goods and services who make public spaces their workplace. This informal economy activity is a traditional manifestation of the human right to work, though it has been increasingly seen as unfair competition *vis-à-vis* commercial establishments, and as a practice associated with disorder, public health risks, tax evasion, pirated products, and obstruction of pedestrian and motorized circulation. Political activists, on the other hand, use public spaces to promote rallies, marches, and other kinds of demonstrations. In spite of being manifestations of freedoms of expression and assembly, street protest has been questioned more recently due to its consequences for ordinary city life, like the obstruction of traffic flow, disorder, insecurity, and other annoyances. The case studies have shown, however, that street vending and political activism have become targets of regulation also because they are spatial practices that do not fit into the pretty picture portrayed of the tourist city and its public spaces.

In Acapulco, government officials believe that street vendors make tourists feel uncomfortable, and thus damage the tourist image of the city. Statutory texts were enacted at the local level establishing legal

norms with the declared purpose of freeing the city's tourist zone of street vendors. Because of the degree of informality of the local economy, local authorities are aware that they do not have the means to control street vending throughout the entire city. As a result, they regard the thousands of street vendors who use public spaces to work as legitimate, with the exception of those who act in the tourist zone. The control of street vending in the tourist zone is permanent, there are municipal inspectors enforcing the norms on a daily basis, who are constantly motivated to do so by formal merchants. Meanwhile, the rest of the city is neglected by the state.

In San Sebastian, street vending has been suppressed from the city's landscape quite successfully both in the tourist and non-tourist zone. Legal norms imposed by municipal ordinances strictly prohibited it. In addition, the city has enough resources to enforce these legal norms across the entire municipal perimeter. The main motivation for the norms making this activity illegal is unfair competition *vis-à-vis* formal commercial establishments, but local authorities also associate street vendors with disordered public space and express concerns about the impact of street vending on the tourist image of the city. They say that more flexibility and tolerance is possible in respect to spatial practices that might represent an attraction to the city, which is not the case of street vending.

Statutes were enacted to prohibit unlicensed street vending in Florianopolis as well. It is a spatial practice allowed only within selected areas of the city and subject to a series of legal requirements. Street vendors can no longer choose where they want to work or change their locations according to their needs and aspirations. Influenced by tourist representations of space, government officials explain that street vendors are being located in places where they do not disturb tourists. Moreover, they proudly celebrate their ability to rid the tourist zone of this type of activity. The Historic Center is the focus of the enforcement operations carried out by public administration agencies throughout the year, while beaches are targeted in the summer. This results in substantial differences in norms enforcement between the tourist and the non-tourist zone.

It is not difficult to understand the reasons why local authorities, as much as postcard makers, would prefer to set apart signs related to political activism from public spaces in the city's tourist zone. In San Sebastian, the actions and discourses of the *izquierda abertzale* are discouraged, controlled, and repressed, making public spaces look like peaceful places where dissent and social unrest cannot be found. Also,

the visibility of these discourses in the tourist zone is perceived as damaging the image of public spaces as it highlights the existence of a serious political conflict in the Basque Country. Eventual antagonisms between opposing groups of political activists are not desirable in such a tourist space, but apparently it would be less problematic if they were displaced to the outskirts of the tourist zone and kept hidden from the visitors' gaze. Government officials claim that the image of the city, its cleanliness and beauty, must be preserved from disturbing elements. However, for a long time the Basque left-wing nationalists have been fighting their way back into the public. They have created their own network of territorial spaces, struggling for the right to public space and assuring that their political discourses remain visible in the middle of the tourist zone.

Controversies over political activism are also important in Acapulco. Obstructions of urban roadways during demonstrations have been criminalized, as the right to protest is said to enter in conflict with another right, the freedom of movement. Surely, the use of city streets by political activists often degenerates into a chaotic scenario for the traffic flow. It may also affect tourists' ability to move across the city in a practical manner. For example, tourists may miss their flights because they cannot manage to pass through a march. But because large-scale protests are reported in the mass media, local authorities consider the ways through which demonstrations damage the tourist image of Acapulco much more problematic. Thus, the use of public spaces for protest is not permitted in the tourist zone. Local authorities highlight that affecting the tourist zone is undermining the tourist trade. However, many places marketed as tourist attractions also happen to be traditional, central plazas and streets, where for several decades people have gathered and on occasion demonstrated.

In the case of Florianopolis controlling marches and rallies has also been on the political agenda of local authorities. Spatial tactics are frequently used to legitimize the violent dispersion of demonstrators from certain sites by police forces. Yet, in addition to affecting the traffic flow, political activists have other goals in mind when selecting sites like the bridges and main tourist avenues to be occupied. They know that some spaces are strategic for the city, that particular streets are more significant than others, because they are more symbolic. By occupying these spaces in order to protest, political activists are subverting tourist representations of space and claiming their inclusion into the public.

### ***9.3 Controlling the Public***

As I have demonstrated, local authorities have the image of tourist postcards in mind when they talk about how public spaces are supposed to look. Influenced by tourist representations of space, government officials consider public spaces situated in the tourist zone to be those that really matter from an economic point of view, and share a set of conceptions about which spatial meanings should be encouraged and discouraged in order to make them more valuable. The immaculate images from postcards are now expected to be inscribed in the actual landscape. But making the spatial practice conform to the marketed image is a very different challenge. Although ideological norms arise within the process of conceiving representations of space, public space policies have to be conceived and implemented by the state at the local level in order to control the public of users, especially the actions and discourses of particular social groups who put the tourist image of the city at risk, such as political activists and street vendors. Yet, these social groups have also fought back claiming inclusion.

As it is well-known, controlling the actions of others is a major function of norm-setting (Therborn, 2002: 876). The analytical focus over the privatization processes that lead to the production of 'postcards of exclusion' questions what kind of public is being constructed by state regulation as well as which social groups are being controlled. Obvious targets of regulation in the tourist zone include not only street vendors and political activists, but also the public presence of other social groups such as beggars, trash collectors, loitering teenagers, and the homeless. Power relationships weigh heavily in relationships between norm-setters and norm-targets, and legal norms governing public spaces more frequently target relatively disempowered social groups.

As Therborn highlights (2002: 876), "the main point is that the people setting and maintaining a norm are not necessarily overlapping completely with the people expected to follow the norm. Norms of what children must and must not do are usually set and maintained by adults, who often see no reason why they themselves should follow them. Patriarchal norms about female behavior are also usually of this disjoint kind, particularly with regard to virtue and sexuality. In the current attempts at global norm formation, some clearly refer to conjoint norms, such as the ones against greenhouse gas emissions, whereas others, like the efforts at proscribing war crimes, are primarily aimed at certain targets". Indeed, street vendors and political activists, for instance, rarely have the possibility of participating in the process of setting and

maintaining the norms that they are compelled to follow, even if they may eventually deploy norms against the relatively empowered on behalf of their own interests.

Of course, the ideological norms of the tourist city are not the only ones that influence public space regulation. Terrorism, street crime, vandalism, obstruction of the flow of traffic, and harassment of pedestrians are among the declared reasons for the call for repressive control over what is perceived as disorder in urban public spaces. The exclusion of social groups from public spaces is actually connected to a series of underlying socioeconomic processes and the ideological norms associated with them. As I have shown, the tolerated public has been increasingly equated to that which is understood to be convenient to middle-class and upper-class residents and visitors. The homogenization of the public guarantees more profit than the free presence of different publics. As a result, public spaces have been managed in order to favor functional goals such as safety, spectacle, entertainment, comfort, beauty. The surprising and unexpected interactions and encounters likely to be found in public spaces are now being subject to careful planning by landscape designers and real estate developers. Local authorities have been working to erase the annoying realities of everyday life that do not match the expectations of those who seek leisure and consumption experiences from public spaces.

At the local level, the state is responsible for managing class and group interests. It imposes prohibitions and sanctions over certain forms of spatial practice through everyday techniques of social control. Under the capitalist mode of production, public spaces are turned into products with an exchange value that are traded and consumed. There is a tendency to produce “abstract spaces” – this is the way Lefebvre labeled the spatial forms which all look the same, oriented towards fragmentation, homogeneity, and hierarchy. Nevertheless, space production leaves open the permanent possibility of a search for transformation of the prevailing spatial order. Even public spaces characterized as ‘postcards of exclusion’ preserve use values connected to the satisfaction of human needs and aspirations. Excluded social groups resist them first and foremost by occupying public spaces physically with their own bodies.

#### ***9.4 Ideological Norms and the State’s Repressive Role***

In this chapter, the concept of ‘postcards of exclusion’ was proposed as a trope to understand a pattern of uneven development and

spatial injustice in respect to the state's repressive role in controlling the public in public spaces. As I have demonstrated, the production of 'postcards of exclusion' is a process of privatization associated with a key ideological norm stating that public administration agencies should encourage the particular social groups' actions and discourses in the tourist zone that are the most profitable to the tourism industry and discourage those that are less profitable. Such an ideological norm of the tourist city tends to influence legal norms, legal practices, and social norms aimed at controlling the behavior of certain social groups in a way that results in differences in regulation between the tourist and non-tourist zone of the city. Street vendors and political activists, for instance, are common targets of the state's repressive efforts in the tourist zone, but not so much so elsewhere in the city. The spaces characterized as 'postcards of exclusion' may be attractive for tourists. However, their 'public' character must be seriously questioned, since they do not tend to fulfill their potential for encouraging the encounter of social differences.

## **CHAPTER 10**

### **Places Off the Map:**

#### **The Uneven Promotion of Public Uses**

Drawing from the case studies of Acapulco, San Sebastian, and Florianopolis, the previous chapter presented the first part of my analysis of the role played by the ideological norms of the tourist city as indirect means through which the tourism industry influences local authorities' actions. The interconnections between ideological norms and tourist representations were discussed. I argued that images of tourist materials are constitutive of normative expectations that surround social actors' behavior. In particular, I explored the consequences of an ideological norm stating that the actions and discourses most profitable to the tourism industry shall be encouraged and the less profitable ones discouraged by public administration agencies in the tourist zone. Also, I introduced the conceptual trope 'postcards of exclusion' to understand a pattern of uneven development and spatial injustice related to the state's repressive role in controlling the public.

In this chapter, my aim is to analyze a second ideological norm of key relevance for understanding public space regulation in the tourist city. This ideological norm stipulates that the financial and non-financial resources shall be addressed by public administration agencies with priority to the places situated in the tourist zone. In addition, I elaborate on another conceptual trope, 'places off the map'. It is relevant for theorizing the pattern of uneven development and spatial injustice that is associated with the state's promotional role and shaped by ideological norms regarding the uneven promotion of public uses. In section 10.1, I explain the passage from the idea of tourist map as an artifact to its metaphorical meaning. In section 10.2, I draw from street maintenance and square redevelopment projects as themes of conflict to illustrate how public spaces outside the tourist zone tend to be neglected by the state when allocating public resources. In section 10.3, I comment on the differences in regulation that exist between the tourist and non-tourist zone due to the ways through which public uses are promoted.

#### ***10.1 Map, from the Artifact to the Metaphor***

Tourist maps also are famous icons of mass tourism. Maps can be defined as artifacts designed to represent space on a flat surface to a given audience. More specifically, a tourist map is a mass-produced device that aims to communicate to tourists where the tourist attractions



and facilities of a tourist city or region are situated and how they can be easily reached. Selling tourist maps may be a direct source of profit for the tourism industry, but they are often distributed to visitors by tourist offices and establishments for free. This is because tourist maps also perform the function of markers, providing indispensable information to guide visitors that arrive in unfamiliar spaces.

Through symbols and lines that compose abstract images of concrete places, maps try to represent space. "The main structural feature of maps is that in order to fulfill their function they inevitably distort reality" (Santos, 1997: 282). Thus, maps are not an objective form of knowledge; instead, they are representations of space. On the one hand, mapmaking is a social practice that faces a significant number of technical obstacles to provide reliable spatial information, such as the use of mechanisms of scale, projection, and symbolization (see Santos, 1987). On the other hand, mapmaking is a social practice marked by the presence of power (see Harley, 1989). "The steps in making a map – selection, omission, simplification, classification, the creation of hierarchies, and 'symbolization' – are all inherently rhetorical. In their intentions as much as in their applications they signify subjective human purposes [...]. Indeed, the freedom of rhetorical maneuver in cartography is considerable: the mapmaker merely omits those features of the world that lie outside the purpose of the immediate discourse" (Harley, 1989: 11).

In spite of the threat digital technologies pose to traditional paper maps, tourist maps are still in use. Regardless the diversity of techniques utilized by mapmakers, they represent tourist cities in a particular way, by including some elements and excluding others from the representation. The image of the city and its public spaces looks the way it does because it is the one chosen for the purpose of be marketed to tourists. As I have shown, it is not by chance that the space represented in the tourist maps coincides with the tourist zone. Tourists would probably consider a tourist map of the whole of the urban perimeter unclear and even useless. By means of a semiotic analysis of tourist maps, it was possible to verify that most neighborhoods are entirely excluded from the representation, while non-tourist neighborhoods partly comprised by the representations do not receive the same detailed drawing as the tourist districts. For example, the names of some streets and squares are missing. Many public spaces are left off the tourist map, since there are no signs indicating their actual existence in the images.

This means that tourist maps images raise expectations about the social importance of the different zones of the city. As Harley (1989: 7)

argues, taking European medieval maps as an example, “[...] this hierarchicalization of space is not a conscious act of cartographic representation. Rather it is taken for granted in a society that the place of the king is more important than the place of a lesser baron, that a castle is more important than a peasant's house, that the town of an archbishop is more important than that of a minor prelate, or that the estate of a landed gentleman is more worthy of emphasis than that of a plain farmer. Cartography deploys its vocabulary accordingly so that it embodies a systematic social inequality. The distinctions of class and power are engineered, reified and legitimated in the map by means of cartographic signs. The rule seems to be ‘the more powerful, the more prominent.’ To those who have strength in the world shall be added strength in the map. Using all the tricks of the cartographic trade – size of symbol, thickness of line, height of lettering, hatching and shading, the addition of color – we can trace this reinforcing tendency in innumerable [...] maps.”

Tourist maps are mass produced and distributed as promotional artifacts. The semiotic analysis of maps destined for visitors proved to be useful as a method of making tourist representations visible. Because tourism promotion is concentrated in the tourist zone, visitors do not expect to find any sites of interest in most neighborhoods. They do not get to know more than a little part of the city, that which the tourism industry wants them to see. But other audiences beyond visitors are also exposed to these images, such as government officials. These maps shape how they see the city and want it to be seen. They tend to become increasingly more important as mental maps than as artifacts, that is, they become the prevailing way through which residents perceive and understand their own world and represent their city geographically.<sup>308</sup> The image of the city that government officials have in mind is first and foremost that of the tourist bubble, the zone being sold for tourist consumption.

Regardless of their importance to local residents, many of the public spaces in tourist cities are places off the map. Such a statement may be evident as far as cartographic representations printed on pieces of paper are concerned. Nevertheless, if the concept of map is metaphorically extended to also refer to mental maps and the impact that these dominant representations of space they have in shaping the space production process, then the consequences are much more significant.

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<sup>308</sup> The pioneer work of Lynch (1960) still is of great interest to understand the role of mental maps in everyday life.

Insofar as mapped places are considered to be more profitable for the tourism industry and, therefore, worthy of greater public attention, the promotion of public uses in public spaces situated outside of the tourist zone may be seriously neglected. The latter receive fewer public investments and careless maintenance services. They are relegated to a less important position in the hierarchy of priorities concerning the promotion of public uses across the interior space of the city.

### ***10.2 Street Maintenance and Square Redevelopment Projects***

Street maintenance and square redevelopment projects were the embedded thematic examples of conflict over public spaces that were studied in the cases of Acapulco, San Sebastian, and Florianopolis to analyze controversies regarding the state's promotional role in allocating resources to the promotion of public uses. As I have discussed, the physical conditions of streets may either encourage or inhibit particular users and uses. Street maintenance was defined as the set of services required to maintain the sidewalk in good state of conservation, including the maintenance and repair of the pavement, street furniture, and streetlights, as well as everyday services such as cleaning, sweeping, pruning, and gardening. Square redevelopment projects are understood as interventions aimed at creating or rehabilitating plazas and parks. Conflicts of interest characterize each stage of their conception and execution. They may neglect the more pressing needs of the poorest inhabitants and be related to gentrification processes. Street maintenance and square redevelopment projects are developed under a normative framework governing the allocation of public resources and the action of government officials.

In San Sebastian, the municipal government is responsible for the maintenance and repair of sidewalks, street furniture, cleaning, sweeping, and gardening services. Streets situated in the tourist zone have a remarkably high maintenance level. Yet, the streets located outside of the tourist zone look quite different. The absence of the hexagonal grey and white stones on the sidewalk is a sign indicating a neglected area. As are, trashcans full of garbage, benches painted over with graffiti, and drinking fountains that no longer function. Government officials deny that they are following an ideological norm stipulating that special attention must be paid to the tourist zone, but they nonetheless recognize that the frequency and intensity of maintenance services are not the same everywhere. There is an ideological norm embedded in the organization of the maintenance

services. The *List of Technical Specifications* not only describes in detail the how services should be executed, but also divides the urban perimeter into different sections with distinct requirements concerning the frequency and intensity of maintenance services to be provided. Not surprisingly, the highest level of cleaning is required in the tourist zone.

Government officials are also influenced by the ideological norms of the tourist city in respect to street maintenance in Acapulco. For instance, the *Policing and Governance Ordinance* states that the municipal government is expected to give priority to the parks, gardens, and streets with the highest tourist flow when allocating resources to street lighting maintenance. Local authorities know that the city is economically dependent on tourism and therefore understand that there is a need to keep the tourist zone very pleasant for visitors. The tourist bubble comes first in hierarchy of priorities, then the neighborhoods and last the informal settlements. In addition, the organization of tasks tends to reinforce the uneven distribution of street maintenance services between the tourist and non-tourist zones. For example, there are public administration agencies with a focus on maintenance efforts exclusively in the tourist zone. When something is done by the tourism industry in this respect, such as putting pressure on the public administration agencies responsible for maintenance services, it is done on behalf of the tourist zone. Companies belonging to this sector, whose clients do not live in the city, do not have reasons for making their brand visible in the poorest neighborhoods.

From the case study of Florianopolis, one learns that sidewalks of the main tourist avenues have been redeveloped and standardized by means of a series of investments made by the municipal government in order to have a more pleasant tourist city, regardless of whether it is or not landowners' responsibility. Similar to what happens in relation to the provision of street maintenance services, the action of the municipal government concerning sidewalk redevelopment is focused on the tourist zone, both in the case of direct interventions and law enforcement efforts. For example, there are no policies for neighborhoods where residents are more unlikely to be able to afford the cost of renovating the sidewalks. Although government officials are reluctant to recognize that they follow an ideological norm stating that priority should be given to the tourist zone, numerous differences between the tourist and the non-tourist zone in terms of street maintenance can be related to the action of the state itself. It refrains from counterbalancing patterns of uneven development concerning

street maintenance, as it privileges the tourist zone to the detriment of neighborhoods with much more pressing needs.

The tourist zone is also privileged when square redevelopment projects are taken into account. In Acapulco, small-scale and intermittent interventions in poor neighborhoods are not uncommon. However, unequal distribution of public investment in the promotion of public uses between the tourist and the non-tourist zone is to a great extent embedded in the legal framework of square redevelopment projects. It was not until recently that this situation started to change. As I have shown, changes occurred due to the implementation of a heavily subsidized and marketed program by the federal government in partnership with local authorities as a key component of a national strategy to fight organized crime in Mexico. Because violence is a major problem affecting the image of the city as a whole, government officials assume that potential positive outcomes for poor neighborhoods will also have consequences for the tourist zone.

In San Sebastian, parks and squares in the tourist zone still look very different in terms of quality compared to those in the non-tourist zone. Local authorities, however, deny that they are following ideological norms saying that special attention should be given to the tourist zone. I contrasted the redevelopment project of two plazas; one situated in the tourist zone and the other in the non-tourist zone, and concluded that they were diametrically opposite experiences. I found that differences concerning norms governing the decision-making process matters for the standard of quality that is achieved in respect to a given public space. In the second case, for instance, there was more involvement of local authorities and an official participation mechanism for the residents while in the first there were a lack of official participation mechanisms from the very beginning of the decision-making process.

Finally, in the case of Florianopolis, I discussed how public-private partnerships have been seen by government officials as a possible solution for square redevelopment projects in order to save the municipality's scarce resources and bring additional benefits to the population. The City Council authorized the municipal government to make agreements with private and public companies and entities to collaborate on the improvement, repair, and maintenance of squares, parks, and gardens. Nevertheless, the local authorities are having problems signing satisfactory adoption agreements with private companies concerning the redevelopment and maintenance of squares and parks of great importance to the city's everyday life because they

are all places that do not belong to the tourist zone. Since these places are off the map, they do not have the same visibility; thus, adoption agreements become less interesting for the private sector. This results in a highly selective adoption program, in the sense that special attention is given to the tourist zone to the detriment of the non-tourist zone. There is an ideological norm embedded in its conception and implementation that prevails in terms of guiding local authorities' action.

### ***10.3 Promoting Public Uses***

As it was discussed most of the current strategies to improve public spaces in tourist cities have reinforced patterns of uneven development and spatial injustice. There is an imbalance in the distribution of public investments between the tourist zone and the non-tourist zone. Local authorities are unequivocally influenced by tourist maps images when they intervene in the physical organization of public spaces – aspects such as landscape design, street furniture, maintenance services, and so on. Responding to tourist representations of space, government officials consider public spaces situated in the tourist zone to be priorities when allocating financial and non-financial resources to promote public uses because they are the most visible to a wider audience and are more important from an economic point of view. Beyond from respecting ideological norms, making the spatial practice conform to the marketed image requires the implementation of public policies and the enactment of legal norms governing public space management.

Though norm-setting can have a repressive function, it also should be considered a means to favor and promote particular actions. One can identify the promotional functions of norms, in that they serve to encourage certain behaviors as well. The analytical focus on the publicization processes that result in 'places off the map' questions where public uses are being encouraged by the state and for whom. As I have stressed, not every public space of a city is of interest to tourists and the tourism industry, quite the contrary. One can critically interrogate which publics those governmental efforts are intended to benefit by analyzing the choice of the areas to be redeveloped and the kinds of uses and discourses that are privileged. For instance, one of the most important findings of the present inquiry is that the hierarchicalization of space on behalf of the tourism industry's interests is to a large extent embedded in the norms framing street maintenance and square redevelopment projects. Contradictions are continuously

reinforced by the state whenever it exercises its promotional role by unequally distributing public investments in the promotion of public uses, favoring the tourist zone to the detriment of the rest of the city.

Nonetheless, the allocation of investments in the promotion of public uses is not exclusively influenced by the ideological norms of the tourist city. The production of 'places off the map' is a more general phenomenon connected to underlying socioeconomic processes and the ideological norms associated with them. For example, consider the dichotomy formal vs. informal. For a long time, in the administrative maps of cities like Rio de Janeiro the hills occupied by thousands of families were simply painted green. There was no sign of the existence of irregular urban settlements on the maps. That is, other kinds of cartographic representations also reflect and shape the contradictions that are found between public spaces when it comes to the provision of maintenance services, street furniture, and basic infrastructure. Also, consider public space redevelopment programs funded by the state in partnership with private actors. For the most part, they tend to generate ambivalent outcomes. Their rhetoric is about enhancing the 'public' character of public spaces by means of tourism and cultural policies, but in addition to being selective and neglecting the needs of the city's poorest inhabitants, they are likely to accelerate gentrification processes and displace traditional dwellers in favor of newcomers.

As Lefebvre highlights, the state at the local level plays a promotional role of unequivocal relevance. It is not only responsible for the management of class and group interests, but also for the distribution of resources assigned to collective interests, providing infrastructure, equipment, and services. Within the capitalist mode of production a contradiction arises when the state acts to counterbalance the process of commodification of space and preserve the use values that are essential to maintain at least a certain degree of social welfare throughout the city. Otherwise, ideological norms take precedence and reinforce the unbalanced spatial distribution of public investment. In a tourist city, the vast majority of public spaces are situated outside of the tourist bubble. Thus, a focus on preserving and encouraging public uses in 'places off the map' remains crucial for counterbalancing patterns of uneven development and spatial injustice.

#### ***10.4 Ideological Norms and the State's Promotional Role***

In this chapter, I introduced the concept of 'places off the map' to describe a pattern of uneven development and spatial injustice regarding

public space that is connected to the state's promotional role in allocating resources to promote public uses. As I have shown, the production of 'places off the map' is related to an ideological norm of crucial importance for the tourist city, which says that public administration agencies should prioritize the distribution of financial and non-financial resources to the places situated in the tourist zone. This ideological norm influences the content of legal norms, legal practices, and social norms. Therefore, it gives rise to differences in terms of regulation due to the priority given by the state to the tourist zone when allocating resources to the promotion of public uses across the city. Street maintenance and square redevelopment projects provide examples. From the tourism industry's perspective, the public spaces characterized as 'places off the map' may be unimportant, but from the residents' perspective, they are crucial for meeting everyday life needs and aspirations. Unless public investments are made to improve them as an essential part of a process of publicization, they are likely to become places whose 'public' character is questionable as they do not tend to favor the encounter of diverse publics.





## **CHAPTER 11**

### **Conclusion**

Space matters for norms, and vice versa. They are mutually constitutive dimensions of social relations. As I have shown in Part I, a growing body of literature has been concerned with addressing the intersections between norms and space, following the spatial turn in the social sciences. Although the debate over the spatial dimension of state law has drawn considerable attention, law and geography scholarship has also posed challenges to the state-based notions of normativity and spatiality that are of paramount importance to mainstream legal science. Legal geography succeeded in becoming a field of vivid interest within sociology of law. Nevertheless, there is still work to be done on exploring the theoretical, methodological, and practical implications of its insights for the study of norms and normative action. In order to strengthen the foundations of this research field there needs to be a move towards a more critical and consistent approach to the nexus between space and norms. This dissertation has pointed out some alternatives in this direction.

Although this research was mainly exploratory, in a broader sense its ultimate goal also was explanatory. I have sought to add an original contribution to the body of socio-legal research in the field of legal geography. In order to do so, I designed a multiple case study analysis and put forward my own understanding about public space regulation as a social phenomenon. In Part II, I have documented and described manifestations of this social phenomenon in different empirical settings to draw empirically grounded and theoretically informed assertions about the intersections between norms and space from the case studies. In spite of recognizing that these theoretical propositions are not generalizable, I contend in Part III that they are useful for explaining public space regulation in many other cities beyond the three cases that were studied in this dissertation.

The short analytical answer to the overall research question of the present study is that public space regulation is the result of the interplay of five conceptual pairs: social and spatial practices, legal norms and jurisdictional spaces, legal practices and spatial zoning, social norms and territorial spaces, and ideological norms and representations of space. These conceptual pairs that were developed in Part III help to explain how property relations on a given city street, square, park, or beach are asserted, negotiated, and contested by social groups in everyday life and why actions and discourses are treated differently

according to the place where they are performed even in public spaces that are physically close to each other. In addition, they make possible to appreciate the extent to which the normative dimension of the production of space is related to patterns of uneven urban development and spatial injustices. Indeed, this dissertation has corroborated the hypothesis that public spaces look so different in part because regulation is not identical across the interior space of the city.

This socio-legal explanation contradicts the unsatisfactory answer commonly provided by mainstream legal scholarship, which was critically assessed in Part I. According to the paradigm of legal dogmatics, places like streets, squares, and parks are common use property, where everyone is equal. This is the main concept that legal dogmatics relies on to explain public space regulation. Common use property is a concept of legal dogmatics that does not explain how public space regulation is connected to the social conflicts over urban public spaces that have been extensively studied by urban sociologists. Today this legal category ultimately has been turned into an illusionary discourse about equality in public spaces that serves an ideological function to influence judicial decisions and public policies. The concept of common use property only reinforces the idea that there are no differences in regulation across a city.

Broadening the scope of my inquiry beyond legal norms and paying attention to normative action allowed me to raise questions otherwise closed off by conventional legal scholarship. In order to meet this challenge, I not only utilized longstanding socio-legal concepts such as social norms and legal practices, but also introduced the concept of ideological norms. This is a new socio-legal category developed in Part I of this dissertation with the aim of studying in Part II the phenomenon of public space regulation empirically. Considering that the theory of norms remains unexplored in legal geography thus far, such theoretical developments are seen as original contributions to the debates in this field. Nonetheless, the argument of this dissertation has at least two significant limitations in this respect. First, whether such a proposal of distinguishing the ideological norms as a particular norm type may significantly strengthen the explanatory potential of the theory of norms. Secondly, it is worth noticing that a much deeper and more specific work is required in respect to the role of social norms.

As I have argued in Part I, conflicts over public spaces cannot be simply studied in isolation from the broader socio-economic context interfering in the production of the cities in which they are situated. For this reason, this dissertation was based on evidence about public space

regulation in a specific kind of city, the tourist city. This is the binding concept that holds together the case studies that were presented in Part II. In the tourist city, there is a divide between the tourist zone and the rest of the city, since some places are selected to become tourist attractions whereas others are kept outside of the tourist market. Of course, there are also other urban divides of unequivocal relevance to be considered, such as that between formal and informal zones that characterizes the urbanization of Latin American cities. But one cannot forget that all major cities now market themselves as tourist cities. Therefore, they also have a tendency to develop a tourist/non-tourist divide that when combined with older patterns of uneven development may exacerbate spatial injustices.

Substantial differences regarding to the ways public space are regulated can be detected when the tourist and non-tourist zone are compared. First, I suggested in Part III that the differences in terms of public space regulation exist because the public in the tourist zone is controlled by the state through mechanisms that discourage particular social groups' actions and discourses. This gives rise to a pattern of uneven development that I called metaphorically 'postcards of exclusion'. It is closely associated to the state's repressive role and influenced by ideological norms concerning the selective control of the public. Second, I suggested in Part III that differences of regulation are also due to the priority given by the state to the tourist zone when allocating resources to the promotion of public uses. Differences of regulation are also constitutive of another pattern of uneven development that I described metaphorically as 'places off the map'. It is related to the state's promotional role and shaped by ideological norms regarding the uneven promotion of public uses. These cross-case assertions are supported by evidence from the embedded thematic conflicts over public spaces that were studied in Part II: street vending, political activism, street maintenance, and square redevelopment projects.

Finally, in Part II this dissertation illustrated the ways in which visual representations of space construct the meanings of norms governing the spaces we commonly inhabit. I argued that ideological norms regulating public spaces arise within the process of conceiving tourist representations that benefit hegemonic groups in society. The ways semiotics was used to show how the imagery reproduced by tourist materials is part of the normative expectations that surround social actors' actions, is certainly the most relevant methodological contribution of the present study. As I demonstrated in Part III, this is

one of the key mechanisms through which the tourism industry influences the regulation of public spaces. Tourist representations defining whether or not a given place is situated in the tourist zone are the main criteria for uneven regulation. Thus, it is possible to conclude that ideological norms influence legal norms, legal practices, and social norms regulating public spaces.

Such a conclusion posits questions for further research. As I have shown in Part I, impressive efforts are being undertaken by government officials in order to strengthen public space regulation. More specifically, legal norms are seen as a strategic tool for saving public spaces from disorderly and unruly individuals, and at the same time as a way of promoting an attractive image of the city. However, this hegemonic normative agenda clearly contrasts with urban social movement's agenda of the right to the city. These movements are promoting a rights-based approach to urban politics. If they want to fight the ideological norms of the tourist city that were discussed in Part III, does the platform of the right to the city offer a set of counter-hegemonic ideological norms for regulating public spaces? And how are public spaces represented according to these counter-hegemonic discourses? If the argument in Part III of this doctoral dissertation is correct, then the success of struggles for the right to the city may be closely associated to their ability to make use of counter-hegemonic representations of space and ideological norms to shape legal norms, legal practices, and social norms, and therefore influence the regulation of public spaces.

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6. Secretaria de Turismo. 2011.05.10, 29m, Palacio Municipal, Parque Papagayo.
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## **Appendix**

### **Case Study Database (digital)**

#### ***Case Study of Acapulco***

##### **I – Interviews**

- Interview guide in Spanish
- Letter of presentation in Spanish
- Example of letter to the interviewees
- Interviews transcription and audio records

##### **II – Tourist materials**

- Digitalized tourist maps
- Digitalized tourist guides and brochures
- Digitalized postcards

##### **III – Newspaper reports**

- El Universal newspaper reports
- El Sur newspaper reports
- La Jornada Guerrero newspaper reports

##### **IV – Documents**

- Legal documents
- General documents

#### ***Case Study of San Sebastian***

##### **I – Interviews**

- Interview guide in Spanish
- Letter of presentation in Spanish
- Example of letter to the interviewees
- Interviews transcription and audio records

##### **II – Tourist materials**

- Digitalized tourist maps
- Digitalized tourist guides and brochures
- Digitalized postcards

##### **III – Newspaper reports**

- El Diario Vasco newspaper reports
- Noticias de Gipuzkoa newspaper reports
- Gara newspaper reports

- IV – Documents
- Legal documents
  - General documents

***Case Study of Florianopolis***

- I – Interviews
- Interview guide in Portuguese
  - Letter of presentation in Portuguese
  - Example of letter to the interviewees
  - Interviews transcription and audio records

- II – Tourist materials
- Digitalized tourist maps
  - Digitalized tourist guides and brochures
  - Digitalized postcards

- III – Newspaper reports
- Folha de São Paulo newspaper reports
  - Diário Catarinense newspaper reports
  - Notícias do Dia newspaper reports

- IV – Documents
- Legal documents
  - General documents