

Cultural heritage, memory and contemporary dilemmas about accessibility in preserved and tourist sites: The case of the construction of the access ramp to Praça Doutor Gomes Freire in Mariana

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ABSTRACT

This study investigates the convergence between accessibility and the protection of cultural heritage in Gomes Freire Square, Mariana/MG. Following the controversy surrounding the construction of an access ramp, the work analyzes the interaction between the interests of civil society, public authorities and local stakeholders. It uses a qualitative methodological approach, exploring legal frameworks, theories of cultural heritage, memory, tourism and accessibility. It concludes that it is possible to reconcile these rights through an open and participatory dialogue between the parties involved, reflecting a commitment to inclusion and the preservation of historical heritage.

Keywords: Accessibility, Cultural heritage, Tourism, Conflict, Dialogue.

INTRODUCTION

With the advent of the legal framework on the right to accessibility based on the debates and international agreements proposed by the United Nations (UN) in recent decades, a new era in the right to accessibility began in the Brazilian State. This right, provided for in article 244, caput, of the Constitution of the Federative Republic of Brazil of 1988, remained, from the popular point of view, limited. However, in recent years, civil society has organized itself and demanded that the Government regulate it in an unrestricted and inclusive manner.

Considering all this movement and the recent construction of the access ramp to Dr. Gomes Freire Square on Barão de Camargos Street in Mariana/MG, the work has as its problem-theme the following question: convergence of legitimately protected interests? Based on this theme-problem, the work aims to achieve a more adequate response based on the manifestations of public agencies, the local collaborative network (*stakeholders*) through their merchants, service providers, councils, associations and other organizations committed to tourism as an economic activity and to the safeguarding of heritage in the Municipality, based on the legal and doctrinal framework on the right to cultural heritage and the the right to promote accessibility for persons with disabilities.

To this end, it delves into the structuring concepts of cultural heritage, memory, tourism and accessibility in the light of the authors proposed in the bibliographies of the disciplines taken by the master's student, directly related to the present theme; the authors working in research on cultural heritage

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and accessibility during the construction of the text; in addition to the legal framework and doctrines inherent to the process of inclusion of people protected by the Accessibility Law, without conflicting with the legal protection of cultural heritage, focusing, for the purpose of analysis and demonstration, on the possibility of coexistence of norms.

Last but not least, it is reiterated that the present work dialogues with the "Graduate Program in Tourism and Heritage of the Federal University of Ouro Preto" (PPGTURPATRI/UFOP) for analyzing the public policies adopted by the Municipality of Mariana for tourism purposes, notably, the construction of the access ramp to Dr. Gomes Freire Square, use of tourism of cultural assets. It dialogues with the area of concentration "Tourism in Heritage Cities and Regional Development", defined briefly as an expansion of the concept of heritage and the new appropriations of the past with its new epistemologies and new objects of investigation. Added to this is the interest of the government and organized civil society in safeguarding the cities framed as cultural heritage, located in the vicinity of the UFOP headquarters in its two aspects: political-administrative and physical. And finally, it dialogues with the research line "Heritage, Memory and Cultural Assets", by emphasizing the interest of the public power and organized civil society in safeguarding cultural property and its legal protection in the face of another equally protected interest: that of accessibility.

OBJECTIVE

Gomes Freire Square, located in Mariana/MG, is a Cultural Heritage listed by the Federal and Municipal spheres, a place of memory and an important tourist attraction. Conceived in the colonial period to welcome the population, it has undergone several modifications. It maintained the same architectural project since the end of the nineteenth century, until in 2020, during the requalification works on the site, it underwent a controversial intervention materialized in an access ramp over Rua Barão de Camargos. Public and private institutions, organized civil society and residents of the surrounding area mobilized and the ramp was modified, starting to dialogue with its surroundings. In view of the facts, the objective was to initiate a qualitative research work on the right to cultural heritage and accessibility, aiming to respond to the problem-theme raised by the construction of the ramp: convergence of legitimately protected interests? We sought to deepen the concepts considered structuring the research: cultural heritage, memory, accessibility and tourism. The public policy imposed on the Municipality in relation to tourism in the square was evaluated, in addition to observing the participation of the local collaborative network. The legal framework on cultural heritage and accessibility, heritage charters and, above all, popular and institutional manifestations through the local, regional and national press were investigated.



METHODOLOGICAL APPROACH

The research has its origin from the reaction of the population of Mariana in 2020, when informed by the Municipal Executive about the construction of an access ramp over Rua Barão de Camargos during the requalification works of Praça Gomes Freire. For the first time, the fierce debate on accessibility in a cultural heritage listed by the National Institute of Historical and Artistic Heritage (IPHAN) began, and at the same time a place of memory. The first lines emerged in the field of ideas when thinking about the relationship between accessibility and the continuous experience of people in a cultural heritage and tourist attraction, as well as its surroundings. Here we come to the problem-theme of the research; It is worth remembering that the construction of the access ramp to Dr. Gomes Freire Square on Barão de Camargos Street: convergence of legitimately protected interests?

This work seeks to address the structuring concepts of cultural heritage, memory, tourism and accessibility. From this begins a study on the panorama of the theories and legal frameworks of these concepts and the possible relationships between them. The referenced researchers make up the list of researchers studied throughout the disciplines of the master's degree. The other researchers cited are part of a list of authors consulted during the preparation of the article who discuss the theme of accessibility, tourism and protection of cultural heritage from different perspectives. It is also necessary to consider the authors included in the article at the suggestion of the qualification committee. The third chapter prioritizes an analysis of the manifestations within the local society about the construction of the ramp and widely disseminated by the local, regional and national press; This is the moment in which it is possible to read the facts that happened in the light of the concepts and legal framework previously worked on in order to envision a reasonable response to the problem-theme posed.

In conclusion, the intended results are presented: the convergence of the right to the enjoyment of cultural heritage with the right to accessibility, based on the manifestations of local society through the press and the information made available on the official websites of the institutions involved.

The study is based on the theoretical and methodological support of qualitative research, aligned with an interpretative epistemology focused on observation. Such methodology presupposes the search for perceptions and analysis of texts (Pimentel, 2022). As qualitative research, it is based on an intimate relationship between the researcher and his/her research, prioritizing field research, that is, obtaining answers without asking questions (Gustin, 2020). The qualitative research is noted in the analysis of the minutes of meetings/official letters/information made available by the Municipal Executive Branch, Municipal Legislative Branch, Municipal Council of Cultural Heritage (COMPAT), Association of People with Disabilities of Mariana (ADEM), Renova Foundation, among other institutions involved, as well as a vast number of reports by the local, regional and national press.



In summary, the present work seeks to construct a reasoned response to the problem-theme initially proposed in the light of all the facts that occurred during the construction of the access ramp to Gomes Freire Square, considering accessibility as a citizen's right and how this right is related to the right to the enjoyment of cultural heritage.

DEVELOPMENT

PRAÇA GOMES FREIRE: CONCEPTUAL INTERFACES BETWEEN CULTURAL HERITAGE AND MEMORY

Brief history of the Square

According to the author Cláudia Damasceno Fonseca (1998, p. 28), the historical and official version of the origin of the city of Mariana dates back to July 16, 1696, on the occasion of the Feast of the Virgin, venerated with the title of Our Lady of Mount Carmel, the date on which the flags Miguel Garcia and Colonel Salvador Fernandes Furtado saw the river gleaming in gold. They baptized the river with the name of Ribeirão de Nossa Senhora do Carmo, a denomination maintained until the present day. They took possession of the place and immediately built the first huts there. They tried to divide the first mines. The first nucleus of inhabitants then appeared, called "Mata Cavalos", and the first chapel was built on the site, consecrated by the official chaplain of the flag, Father Francisco Gonçalves Lopes.

Also according to the author (Fonseca, 1998, p. 33), the first half of the eighteenth century was marked by serious infrastructural instabilities in the formation of the camp, causing the desertion of its first inhabitants on two occasions. However, in 1710, the village once again attracted new inhabitants in search of gold exploration and already had a significant population. The following year, in 1711, the village was elevated to the status of a Village, which now has a Regional Delegated Power: the City Council, made up of the "good men" or "lords of the land". Despite the political-administrative organization, the population still lived with the constant floods in the region, which was only overcome from 1743, with the implementation of the new urban core of the future city.

The author argues (Fonseca, 1998, p. 34) that, for the constitution of a village in the colonial period, it was necessary to divide the urban space into two specific locations: the first, to house the House of the City Council and the Jail in addition to the pillory, therefore, the symbols of municipal autonomy and justice; and the second, to house the Mother Church, that is, the symbol of religious power. Specifically in relation to Gomes Freire Square in Mariana, the object of this research, the author reports (Fonseca, 1998, p. 37):

Near the barracks, where there is now the Gomes Freire square, a drinking fountain for horses was installed, which can still be seen on the site. This place, at the time, was known as "largo da Cavahada", not exactly in reference to the horses of the Dragons, but because it was the place where the popular festivals of that name took place, the curros and the bullfights then in use, in



rejoicing for the birth or marriage of the most serene royal princes or princesses, for the entrance of the governors, and for other resounding events. According to another Marianse historian, Largo da Cavahada was a simple unkempt field, where horse circus companies camped out for the night shows. In other words, it was where the profane ceremonies were held, certainly forbidden in the smallest Largo da Matriz, a place whose use was inevitably regulated by the Constitutions of the Archbishopric. There are no references about the creation and delineation of this place, about the date and origin of its regular risk, which may have been made in the time of the village. Throughout the city's history, this space has received several names and remodeling, following successive urban fashions, but always constituting a place of socialization for Mariana.

Despite the orientation in force at the time, regarding the construction of the main civil and religious buildings in addition to the pillory in the same square, in Mariana there was a kind of separation of the buildings, which began to occupy different places. This is what the author clarifies (Fonseca, 1998, p. 45):

Regardless of the plan commissioned by the king, the space of Mariana was, therefore, already marked by a rich spatial sequence of different squares, which gained in specialization of uses: the large churchyard of the Cathedral, then Praça D. João V, or the Chafariz, a place where public festivals were held, and finally the Praça do Pelourinho.

With independence and the emergence of the Brazilian empire in 1822, the international community began to take an interest in the young nation, starting with the traveller-naturalists. It is in this context that the naturalist Auguste Saint-Hilaire arrives in Mariana. When he got to know the city, he described the current Gomes Freire Square as follows: "the square called Cavahadas is an elongated quadrilateral covered with grass; it is there that in public festivities the horse races and tournaments are held" (Saint-Hilaire, 2000, p. 79). In other words, Praça Gomes Freire has undergone numerous interventions since then, with the one in 2019 being another one of them.

Over the last three centuries, Gomes Freire Square has undergone significant modifications, having also been renamed in several periods of history. After the Proclamation of the Republic, precisely in 1892, the City Council decided to build a Forum, a market, paving the streets and landscaping the Square. Only in 1945, when the city of Mariana was erected as a National Monument under the terms of Decree-Law No. 7713 of July 6 (Brazil, 1945), the square received the current name of Praça Gomes Freire, in honor of the physician and politician Dr. Augusto Gomes Freire de Andrade (1865-1938). (Santos, 2017, p.26). Since then, the Square has not undergone significant interventions until 2019, maintaining the same conformation.

Gomes Freire Square as Cultural Heritage

The debate on the structuring concepts of the article begins, aiming to respond to the problem-theme proposed in this research, based on what is defined as Cultural Heritage. Subsequently, the concept of memory will be addressed, followed by the description of the intervention that took place in the Square,



according to the recommendations brought by the Heritage Letters and their updates. It is important to emphasize that the specific object of the ongoing research will refer to the two concepts, together, as they fit the definitions simultaneously, according to motivations that will be detailed in the following pages.

The expression cultural heritage is composed of two words from the Latin language: *patrimonium*, which means family goods, heritage; and *culture*, which translates as culture, agriculture (Faria, 1992). Both are part of the daily lives of people who have known them since a young age. These are simple words, easy to use, but sometimes quite complex. As if the set of meanings of these words taken separately (Gonçalves, 2003, p. 25) were not enough, when united, they assume an importance that defies people's attention for the reasons that will be pointed out.

The term cultural heritage, defined during the "Convention for the Protection of the World Cultural and Natural Heritage of 1972", promoted by the United Nations Educational, Scientific and Cultural Organization (UNESCO), contemplates three dimensions, namely: as monuments or architectural works; as wholes of a single architecture and as sites, that is, as human interventions, combined or not, with nature (UNESCO, 2004, p. 3). It is noteworthy that with regard to the concept of intangible heritage, UNESCO formally addressed it during its XXV Conference, held in Paris in 1989, as explained by researcher Anna Maria de Grammont (2006, p. 440). At the time, according to the author, traditional and popular cultural manifestations were considered for the first time as intangible heritage, in addition to proposing a differentiated treatment of minority cultures around the world. The researcher argues that the approach to the theme of intangible heritage was the result of a long process of conceptual maturation of heritage that began in the 80s, when the social sciences began to take an interest in intangible cultural production. However, he concludes, approaches to heritage in academia and outside of it are still impregnated by the idea of material cultural good, given the majority of studies on the subject carried out by architects, archaeologists and restorers (Grammont, 2006, p. 440). UNESCO discussed the issue again in 2003, in the "Convention for the Safeguarding of the Intangible Cultural Heritage" (UNESCO, 2006, p. 6).

The Constitution of the Federative Republic of Brazil of 1988 synthesized the concept of cultural heritage as goods of a material and immaterial nature that allude to the identity, memory, of the different groups that form Brazilian society. (Brazil, 1988). Since then, the Brazilian doctrine has presented a range of definitions and understandings regarding the concept of cultural heritage that point to its evolution since the advent of Decree-Law No. 25/37. As already mentioned, the concept of cultural heritage was limited to the set of movable and immovable assets of archaeological, ethnographic, bibliographic or artistic value (Brasil, 1937). This concept, restricted to the prerequisite of "stone and lime" (Fonseca, 2003, p. 59), was quickly overcome by the need to recognize the national cultures represented in the celebrations, forms of expression, traditional knowledge and places. This initiative was due, above all, to UNESCO, shortly after



the Second World War, in order to curb new exacerbated exaltations of certain cultures to the detriment of others; that is to say: the overcoming of the nationalist aspect of the concept of heritage by the universalist one (Abreu, 2003, p.36). Returning to Brazil, the evolution of the concept of Cultural Heritage reached its apogee with the publication of Federal Decree No. 3,551/00, which instituted the registration of cultural assets of an intangible nature (Brasil, 2000).

But what is cultural heritage anyway? For José Newton Coelho Meneses (2006, p. 42 and 44), the concept of cultural heritage is linked to the concept of culture itself. Nowadays, heritage is a communication activity aimed at understanding cultural assets. According to the author, those who enjoy the knowledge about heritage are able to provide solutions to predominantly interpretative problems, resulting in the satisfaction of knowing more and more different cultural constructions. Also according to Meneses (2012, pp. 27 and 28), a heritage cannot be defined from the exclusive perspective of historians, archaeologists and ethnologists, but above all, from the perspective of the feeling of heritage, legacy and identity. The idea of heritage cannot be conceived separately from culture, social construction, memory, ethics, politics and the choices of the collectivity, he adds. It is on the basis of an ethical foundation that the interpretative path of cultural heritage is built. An intelligible patrimony of a people. It is the meaning given to the repertoire of values that identify this society. The author concludes: "Equity is something movable and not immobilized; it is dynamic rather than static; alive and not dead" (Meneses, 2012, pp. 27 and 28).

The Doutor Gomes Freire Square, located in Mariana, the object that comprises the present study, is part of the architectural and urban complex of the city, inscribed in the book of the Fine Arts Tomb of the National Institute of Historical and Artistic Heritage (IPHAN) under No. 62 of May 14, 1938, and assessed under No. 69-T-1938 (IPatrimônio, 2021). It is also part of the urban historical core of the district headquarters, according to the Listing Dossier prepared by the Municipality of Mariana and ratified by Municipal Decree No. 5,272/10 (Mariana, 2010, p. 46). From the description of the Square contained in the Dossier, it is possible to visualize the characteristics that give rise to the conceptualization of cultural and natural heritage: landscaping, afforestation, place of events since the colonial period, townhouses from the colonial period and even a property built in the 1980s, with characteristics of postmodern architecture.

Figure 01 - Gomes Freire Square



Source: UFOP, 2019.

Next, we address another unique characteristic with regard to the consolidation of cultural heritage; Namely: memory.

Gomes Freire Square as a space of Memory

Article 216 of the Federal Constitution of 1988 prescribes the right to memory as an indispensable component in the construction of the concept of cultural heritage. The constituent legislator brings up the concept of memory without bothering, at first, to explore it more intensively throughout the provisions, despite conceiving it as an extremely important pillar in the construction of the concept of heritage seen above. Perhaps, at that time, the legislator had as his guide only the concept of memory of Decree-Law No. 25/37, which until then had been little developed, but which quickly triggered a process of conceptual sophistication, as will be verified.

Among the national and international authors who discuss the theme of memory, it begins with a renowned icon in contemporary times, the Frenchman Pierre Nora (1993, p. 09). The concept elaborated by the author brings with it important requirements for the understanding of memory as a constitutive element of the concept of cultural heritage. Memory is dynamic; punctual; collective or individualized; linked to the place or landscape; Memory is an absolute.

For Jacques Le Goff (1990, pp. 423 and 483), discussing memory is a great challenge, because it is a nebulous concept. However, from his point of view, memory from the point of view of the human sciences, notably history and anthropology, is restricted, *a priori*, to a set of psychic functions in which the human being is capable of updating impressions, or information that is past, or considered by him as past. He goes on to state that it is an individual and psychological phenomenon that is linked to life in society; the latter remaining subject to mutations as a result of the presence or absence of writing. Here is an observation: according to the author, the State, which in order to maintain certain past deeds that suits it, starts to produce documents; building monuments, which implies a direction of collective memory in



relation to social and political space. In short, an appropriation of time by the State, according to its rules of rhetoric.

The Interventions of the Square according to Patrimonial Letters and recent understandings

Among the current Heritage Charters, which discipline the interventions in cultural monuments at an international and national level, priority will be given to those that are more specifically related to the object of this study - construction of the access ramp to the Square - for a better understanding of the concepts to be addressed; that is to say: the Venice Charter, the Burra Charter and the Charter of the Brazilian Historical Gardens, called the Juiz de Fora Charter.

In the Venice Charter, approved during the II Congress of Architects and Technicians of Historical Monuments, from May 25 to 31, 1964. Article 9 defines restoration (Venice Charter, 1964).

The provision is clear about the need for the necessary reconstructions for technical reasons, making their contemporaneity evident. It closes with a warning: the reconstruction must be preceded by an archaeological study. Bringing it to the concrete case, it can be inferred that the indispensability of part of the interventions along Gomes Freire Square and its surroundings, such as the access ramp, proved such technical reasons; Not least because they consisted of legal reasons: the right to accessibility. As for the aspect of the archaeological and historical study, its observance was verified, as widely reported by the media (Portal de Notícias, 2020).

Regarding Article 9 of the Venice Charter, Francisco Marshall (2016, p. 125) explains about the proposal of a method of critical restoration, characterized by the need for its interventions to demonstrate their historical differences; therefore, to emphasize historical differences rather than confuse them. It also accepts the additions of different eras. According to the author, this method comes from the Italian school of restoration, which in turn is consistent with the European school. It is a method that goes back to the specialized doctrine developed in the transition from the nineteenth to the twentieth century, and is already present in the Athens Charter of 1931. In this method, according to the author, "there is an exhortation to respect the various layers of temporality added to the history of the monument, and its preservation in conservation and restoration actions." It concludes by describing the importance of the critical restoration method with regard to the gaps left on purpose during the interventions on the monument. He clarifies: "above all, the value of the gaps appears, the declaration that, between the origin of the object and our gaze, there are accidents and absences that cannot be supplied with the fantasy, even if very informed, of the restorers of other eras" (Marshall, 2016, p. 125).

Apparently, it seems, the restoration of Praça Gomes Freire in 2019 was guided by the method of critical restoration. However, in the initial proposal, it was considered to fill one of these gaps pointed out by the author, according to an excerpt from the report by Agência Primaz (2019).



Of particular note here is the scenic lighting that was considered to be inserted in the Square by means of "led" strips. If implemented, it would become a bad example of intervention and, consequently, of restoration. Obviously, it wouldn't be critical at all. Fortunately, that wasn't the case.

Complementing the Venice Charter is the Burra Charter, which lists the definitions currently recommended by ICOMOS (2013), starting with the concept of conservation. Conservation implies all the necessary care for a cultural asset to maintain its significance. It presupposes a good management of this asset in order to safeguard it, avoiding its exposure to a state of vulnerability. It is based on the protection of the material and other accessories that make up the good, as well as its use, its associations and meanings; It prioritizes a judicious intervention of the good when necessary, but as little as possible. The traces of past interventions in a cultural asset consist of elements proving its history and use and, for this reason, components of its meaning (Brasil, 2013).

Conservation should be understood as a mechanism to promote the understanding of the good, and not as a detriment. Any changes made to the property must not result in its distortion or be based on mere conjectures. Conservation presupposes the use of all the knowledge and procedures necessary for the study and care of the cultural asset. Traditional techniques and materials should be adopted for the conservation of the cultural asset, except in cases where modern techniques and materials provide benefits for the conservation of the cultural asset (Brasil, 2013).

The conservation of a cultural property comprises all aspects of cultural and natural significance without unjustifiably emphasizing one specific individual value to the detriment of another. The cultural property must have a compatible use, and its use is not allowed without its cultural significance. The conservation of the cultural asset also implies a restriction in its surroundings under penalty of the mischaracterization of its cultural value. Any interventions that may negatively influence the cultural property are prohibited, since its physical location also makes up its cultural significance. In the same way, the contents and other accessories of a cultural asset cannot be moved from their original place, except to guarantee their safety, exhibition, treatment, etc. (Brasil, 2013).

Finally, the Charter (Brazil, 2013) emphasizes conservation: the coexistence of cultural values must be maintained and encouraged, especially when they are in conflict. For this reason, conservation can foster processes of retention and reintroduction of use, retention of associations and meanings, maintenance, reconstruction, restoration, adaptations or a combination of all of these.

In relation to preservation, Articles 1 and 17 of the Charter (Brasil, 2013) define it as a modality of intervention that aims to ensure the maintenance of the material and other accessories of the cultural asset in the state in which they are, delaying their depreciation or natural deterioration. Preservation is the procedure adopted in cases where the material of the cultural asset is considered to be of cultural



significance, as well as in cases where the cultural significance of the asset is not proven, making it impossible to adopt other conservation modalities (Brasil, 2013).

Reconstruction, according to Articles 1 and 20 (Brasil, 2013), means the reversion of a cultural asset to a previously known state, and differs from restoration by the introduction of new material. It is only indicated when the cultural property is violated due to damage or undesirable alterations. It is also necessary that the property contains minimal evidence of a previous cultural significance. Reconstruction can also be used in uses and practices that carry with them the cultural significance of that property. It must be identifiable through close observation or even through a complementary interpretation (Brasil, 2013).

Adaptation, according to Articles 1 and 21 (Brasil, 2013), means the alteration of a cultural asset or part of it to comply with the existing use or with a proposed use. Adaptation is limited to everything that is essential for the use of the good; In other words, it is only possible when it has a minimal impact on the cultural significance of the property, surpassing the other possible alternatives.

Last but not least, there is the restoration. According to Burra's Charter, Articles 1 and 9 (2013), it means the redemption of the material used in the construction of a cultural asset to a previously known state; either through the removal of additions, or by the reinclusion of the existing material of the property to the previous state without the use of new material. Restoration is only appropriate when there is strong evidence of a previous state of the material or component of the cultural property.

In the intervention that took place in Praça Gomes Freire in 2019, there is a mix of the definitions listed by the Charter of Burra and the Charter of Venice, with special emphasis on restoration. Among the characteristics of the restoration pointed out in Burra's Letter, it is observed that the contributions that occurred at different times must be maintained, which in principle favors the phenomenon of the palimpsest. One can also highlight the reconstruction, specifically in relation to adaptations, which the letter emphasizes is possible to the extent that it is the only means of preserving the property. With the advent of the Constitution of the Republic and specific legislation aimed at the right to accessibility, it is essential that every property declared of cultural interest undergo adaptations, which is conjectured to be the case of the Square and its access with the construction of the ramp.

It should be noted that the restoration, reconstruction and adaptation within the scope of the Square were to a certain extent absorbed by the concept of requalification, as will be seen in this subchapter.

Continuing the debate, we will analyze the Charter of Brazilian Historical Gardens, called the Charter of Juiz de Fora, elaborated in October 2010 in the city of Juiz de Fora, Minas Gerais, during the First National Meeting of Managers of Historical Gardens, organized by IPHAN, the Mariano Procópio Museum Foundation and the Casa de Rui Barbosa Foundation.



According to the definition presented in the Charter, Gomes Freire Square is a Historic Garden also subject to its guidelines, as expressly established in the recommendations contained in item 08 of the document. In view of this, it refers to one of the recommendations that is very appropriate to the debate: "interventions in historic gardens or their surroundings should be, as far as possible, reversible and this reversal should cause as little damage as possible to the site" (Carta de Juiz de Fora, 2010, p. 11). A similar event occurred on the occasion of the construction of the access ramp to Gomes Freire Square. The first structure, although approved by the competent bodies and by society, was expressly rejected by all at the end of its construction, although it was possible to rebuild it later without irreversibly impacting the environment.

According to Everaldo Batista da Costa (2012, p. 05), requalification is linked to actions that propose an improvement in the socio-environmental quality of certain urban sectors. It aims to associate the social production of the place and its reality as a place of memory and life.

Finally, it is possible to conjecture, albeit hastily, a certain attention of the Municipal Executive Branch subsidized by IPHAN to the recommendations of the Heritage Letters and recent technical guidelines in the 2019 intervention portrayed here. Although the Listing Dossier confirms the Municipality's compliance with the Patrimonial Letters in recent years (Mariana, 2010, p.29); At first, this can still be ascertained throughout the work.

Urban accessibility

Tourism and Accessibility

After the debate, a discussion now begins about the interventions in Gomes Freire Square aiming at accessibility and the consequent reflections on the local tourist activity, in order to reach a possible answer to the initially proposed problem-theme: "the construction of the access ramp to Gomes Freire Square: legitimately protected rights?"

Taking Federal Law No. 11,771/08, which provides for the National Tourism Policy, it is already noted in its article 2 the legal definition of what is considered a tourist activity (Brasil, 2008).

From a doctrinal point of view, it can be seen that the concept of Tourism is extensive. For this reason, some scholars of tourism theory are considered strategic for the present debate and the possible paths to follow.

For Ana Catarina Alves Coutinho and Maria Augusta Wanderley Seabra de Melo (2016, p. 146), based on the studies of John Tribe (1938), tourism is divided into two very well-defined fields: its conception from the point of view of commercialization, that is, its business strategies, the regulations applicable to the tourist activity, its management; and its conception from a non-commercial point of view, such as environmental impacts, its subjective impressions, its social impact, etc.



According to the author Mário Carlos Beni (1990, p. 21), there are numerous definitions of what tourism is. However, among the existing definitions, the author lists those categories common to all of them, which in a certain way converge to a more homogeneous definition possible: travel or displacement, permanence away from home, temporality, subject of tourism and object of tourism. Based on these categories, Beni proposes that tourism branches not only into two conceptions, as proposed by Tribe, but into three distinct conceptions: production that involves a plurality of companies operating in the sector; the distribution of the tourist product to the consumer, including services; and the conditioning of the trip together with the traveler's receptivity.

It can be seen that in recent years, the concept of tourism, inside and outside Brazil, has started to add other definitions that have ended up unfolding it into various concepts. The Plan of the Secretariat of the Creative Economy: policies, guidelines and actions (2011 to 2014) argues that tourism plays an important role in joining initiatives that essentially aim at profit with initiatives that aim at multicultural dialogue.

Having debated the concept of creative tourism, we now move on to a debate on accessible tourism. Initially, it is necessary to refer again to article 8 of Federal Law No. 13,146/15 (Brasil, 2015).

In other words, it is the duty of the State to guarantee people with disabilities, among other extremely important rights, the right to tourism and accessibility. Still on tourism, article 42 of the same Law adds: "People with disabilities have the right to culture, sports, tourism and leisure on an equal basis with other people" (Brasil, 2015).

Reporting again to the Municipality of Mariana, there is a worrying piece of information in the Dossier of the Historic Center Listing, that is: an insufficient infrastructure and its reflection on tourist activity (Mariana, 2010, pp. 17 and 64).

As already reported, until 2019, Praça Gomes Freire did not fully comply with the legislation and the specialized doctrine regarding accessibility. And, based on this and several other reasons already presented in the research, the private institution that carried out the interventions in the Square argued, more than once, about the need for the works, resulting in tension between all the actors involved. (Renova, 2019).

Gomes Freire Square still does not fully contemplate the necessary adaptations for its enjoyment by people with disabilities as a cultural heritage and space of memory. But it is believed that it tends to reach this level after the interventions that took place from 2019 onwards. The very ramp of access to the Square, the theme-problem of this research, consists of one of these measures. However, it was received by part of the community with reservations; Subject to be discussed in the second chapter22inte.

The Construction of the Access Platform to Praça Gomes Freire de Mariana

Divergences of opinions after the beginning of the intervention: moment of tension and IPHAN's positioning

Having advanced a little further in the initial debate expressed in the third and fourth chapters regarding the structuring concepts of memory, cultural heritage, accessibility and tourism; This chapter continues with the analysis of the facts that permeated the interventions in Praça Gomes Freire between 2019 and 2021, in order to build an adequate response to the initially proposed problem theme; that is: the construction of the access ramp to Dr. Gomes Freire Square in Mariana: legitimately protected rights?

As already mentioned, the architectural and urban complex of the city of Mariana, of which Praça Gomes Freire is a part, is inscribed in the book of the Tombo Belas Artes of the Institute of Historical, Artistic and National Heritage (IPHAN) under No. 62 of May 14, 1938 and assessed under No. 69-T-1938 (IPHAN, 2021). For this reason, it is the responsibility of IPHAN, through its technical office located in the city, to assess and approve any intervention projects in the architectural complex.

Specifically regarding the ramp, the object of research of the work in progress, IPHAN definitively approved the project on March 30, 2020, published in Section No. 01 of the Official Gazette of the Union on March 30, 2020. It should be noted that some *local stakeholders* had already agreed to the interventions on November 11, 2019, but not all. (Renova, 2020)

It should be noted that the presence of representatives of the Association of the Physically Handicapped of Mariana (ADEM), for example, was not reported; that is: how was there a consensus if an important portion of the users of the Square did not participate in this first deliberation of the *local stakeholders*? As mentioned in the second chapter, ADEM's technical visit only took place on October 19, 2020, with the works in progress.

Figure 05 - Approval of the project by *local stakeholders* and residents of the surroundings of the Square



Source: Renova Foundation, 2019.

The alleged consensus of *local stakeholders* for the beginning of the requalification works of the Square can be further problematized. In the previous subchapter, it was shown that the Municipal

Executive had already approved the project prepared by the financing institution on September 3, 2019, according to the 27th meeting of the technical chamber between the affected municipalities that took place on September 11, 2019, in Vitória/ES. Now, what actually happened on November 11, 2019, was a *referendum* on the part of local *stakeholders* rather than a consensus on the project to requalify the Square.

This disarticulation of local *stakeholders* fostered the controversies that followed one another throughout the interventions in the Square, notably in the construction of the access ramp. As widely disseminated, during its execution, there was a change of understanding by the *local stakeholders* themselves and other segments of organized society, alleging, in short, a possible discrepancy between the characteristics of the ramp and the ambience constituted predominantly by the architectural ensemble of Praça Doutor Gomes Freire (G1 News Portal 2020).

Figure 06 - First version of the access ramp to Gomes Freire Square



Source: G1, 2020.

Figure 07 - First version of the access ramp to Gomes Freire Square seen from another angle



Source: Portal Angulo, 2020.

The Executive Branch quickly expressed itself, determining the continuity of the construction of the ramp and emphasizing, expressly, compliance with the guidelines provided for in Federal Law No. 10,098/00 seen in the second chapter (Jornal Voz Ativa, 2020). However, the debates persisted in the following days and part of the *local stakeholders* with the other segments of organized society decided to change the initial project, including the intervention of the Public Prosecutor's Office (Portal da Cidade, 2020).

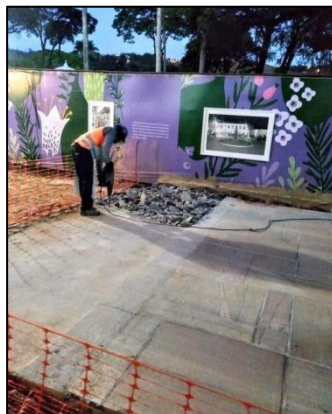
It is noteworthy that during all the controversy surrounding the construction of the elevation ramp for the access to Dr. Gomes Freire Square, only the Executive Branch was expressly guided by the guidelines of Federal Law No. 10,098/00; while the portion of *local stakeholders* mentioned and other segments of civil society focused mostly on the protection of cultural heritage. This is proven by reading some excerpts from the demonstrations published by the local press at the time (Portal da Cidade DE Mariana, 2020).

The sharp division of opinions, arising from two interests legitimately protected by the Brazilian Legal System (accessibility and enjoyment of cultural heritage), points to a worrying reality: is the community facing a collective unawareness of certain rights protected by law or, although conscious, has the population established a hierarchy between these rights?

Paying attention to IPHAN's exclusive manifestations during all deliberations, it seems that the autarchy assumed an unenlightening role in the face of the warm manifestations of the segments of society; Given that it expressed conflicting understandings, and in the end its position regarding the two protected rights (accessibility and enjoyment of cultural heritage) remained incomprehensible.

The first version of the ramp was finally removed at the end of October 2020, as previously reported. Instead, they built a new access ramp to the Square in dialogue with the local architectural ensemble (Mariana, 2020):

Figure 09 - Removal of the first version of the access ramp to the Square



Source: City Portal, 2020.

Figure 10 - Access ramp to Gomes Freire Square currently seen from three different angles



Source: Personal collection, 2023.

On December 23, 2020, the Gomes Freire Square, partially requalified, was handed over to the population by the Municipal Executive under several criticisms from COMPAT and the Nossa Mariana Association, according to excerpts from the reports (Agência Primaz PRIMAZ, 2020).

Results and Discussion

As announced throughout the text, the present work aims to respond to the problem theme "the construction of the access ramp to Praça Doutor Gomes Freire in Mariana: legitimately protected rights?" guided by the structuring concepts already presented. The subchapter is intended to present the most convergent solution possible.

As widely reported by the press, between April 4th and 5th, 2023, the "National Seminar on Cultural Heritage Law" took place in the city of Ouro Preto/MG, which brought together agents of the Brazilian executive, judicial and legislative structure, as well as researchers, specialists, counselors, holders of traditional knowledge, active in research, dissemination and appreciation of cultural heritage; on this occasion the "Ouro Preto Charter for the Brazilian Legislation on Cultural Heritage" (Patrimônio Cultural, 2023) was drafted.

The charter includes 33 guidelines that range from possible patrimonial typologies to compensatory and sanctioning guidelines. Of the guidelines listed, the following stand out those that are directly related to the present study; which are:

Guideline 01 alludes directly to Gomes Freire Square as a protected public space, as it is a historical, artistic and urban heritage, as already described throughout the work.

Guideline 06 alludes to the participation of organized society and part of the *stakeholders* of the Municipality of Mariana during the requalification works of Gomes Freire Square, taken as cultural heritage, a space of memory, tourist attraction for its exuberance, and as a public good attentive to accessibility with universal design.

It is important to emphasize that the tourist activity driven by the right to the enjoyment of cultural heritage, although it was not expressly addressed in the letter, but adopting an extensive interpretation, it can be related to guideline 6 as one of the topics debated by stakeholders during the interventions in



Gomes Freire Square. Here again, we report what the tourist activity in the city of Mariana represents in economic terms: about 19.3% of its GDP (Consecon Jr., 2017).

Guideline 3 refers to the third chapter of the work, when it was demonstrated that Gomes Freire Square is a space of memory and at the same time a cultural heritage; therefore, inseparable in this specific case, which fostered the debates about the interventions that took place from 2020 onwards, including the construction of the access ramp to the Square: "Guideline 22. To observe the right to accessibility for persons with disabilities to cultural heritage."

Guideline 22 is related to the topic of accessibility discussed throughout the article and related to the other structuring concepts as a constitutionally protected right.

Guidelines 28, 29 and 31 apply to the tragic collapse of the Fundão Dam on November 5, 2015, in Mariana, and to the administrative, legal and regulatory developments regarding dams with similar characteristics in the region and throughout the country. They are also associated with the public policy imposed on the Municipality of Mariana by the cause of the damage, whose amount of seven million was directed by the Municipal Executive to the interventions that took place in the Square; This figure is significantly higher than that required for requalification in terms of accessibility alone.

The charter attributes the right to cultural heritage to the same nature as a human right in the light of the Universal Declaration of Human Rights, and to the same nature as a fundamental right provided for in the Constitution of the Federative Republic of Brazil of 1988. Therefore, in line with the charter, there is no other way to characterize the interventions in Gomes Freire Square, exclusively in the aspect of accessibility, without considering the importance of protecting the right to enjoy cultural heritage. Thus, the convergence of these two fundamental rights remains configured as legitimately protected by the legal system; In view of the right to human dignity as a fundamental right, universal accessibility as one of its effective manifestations in society.

It is possible to see a significant advance in the understanding of the right to accessibility after all this process experienced by the local society, which uses the square, made up of a native, adoptive and floating population. It seems that it is only now possible to have a mature debate with citizens about the right to accessibility combined with the right to cultural heritage.

FINAL CONSIDERATIONS

The structuring concepts of cultural heritage, memory, accessibility and tourism deepened in the third and fourth chapters were essential to understand and formulate an answer to the problem theme initially proposed.

Gomes Freire Square, as a cultural heritage and memory space – one of the main tourist attractions in the city of Mariana, as well as a historic living space – has undergone a controversial requalification



process since 2019. The research focused on the main controversy or problem theme; It is worth repeating, the construction of the access ramp to the square on Rua Barão de Camargos: legitimately protected rights? It can now be said that it is.

Discussed throughout the article, the right to accessibility is an important step towards fostering interaction between all people, regardless of their abilities. This implies affirming that the right extends to everyone, without exception, and wherever they are situated; that is, even if in preserved environments, such as Gomes Freire Square. It was seen that the enjoyment of cultural heritage is not restricted, but inclusive, and the entire national legal system, in addition to international treaties, must excel in guaranteeing this right. It means reaffirming that all people with disabilities are entitled to the right to enjoy the property as cultural heritage and as a space of memory. It was seen that the right to accessibility to cultural assets is closely related to the development of the tourist activity of the place, as it is already internationally consolidated that all tourist attractions, including preserved and listed sites, must offer equipment with universal accessibility; something that did not exist in Praça Gomes Freire before the last interventions.

It was found that the requalification works of a cultural asset, as in the case of Gomes Freire Square, aiming at interventions in the original architectural project, the main one being the access ramp, object of this research, is possible, as long as it is properly planned by specialized professionals, and above all with the participation of the people.

It was also observed that Gomes Freire Square, as a cultural heritage and memory space conceived in the colonial period to welcome the population, became, during the interventions, an environment marked by a strong skewed memory of the collectivity, to the point of crystallizing itself as a cultural heritage. This operation led to an almost unthinking resistance on the part of the population, which despised even interventions in favor of accessibility. Adding to all this, it was found that the Municipal Executive at the time did not help by disregarding in all deliberations, together with the Renova Foundation, the local collaborative network (*stakeholders*) in its entirety, the Municipal Legislative Power, COMPAT, ADEM and organized civil society. He justified the works as a matter of public policy, which, as also analyzed throughout the text, was imposed by the aforementioned Foundation.

It was found that accessibility was correctly part of the requalification process of the Square, despite the initial unfounded criticism and the absence of ADEM during the first deliberations. As mentioned, in contemporary times it is no longer conceivable to process the requalification of tourist cultural assets without considering accessibility. The reason is not only the development of tourism as an economic activity, but human dignity. Despite the existing legal framework in the Brazilian legal system and the best doctrine regarding the two rights portrayed here, the greatest challenge is the awareness of society, which seemed to have been achieved timidly in the case of Praça Gomes Freire.



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