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## Ten years of civility “by law”. a study on the application of the byelaw on coexistence in barcelona’s public spaces

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This paper includes the main results of a study on the application of the “Byelaw on Measures for Promoting and Ensuring Civic Coexistence in Barcelona’s Public Spaces”<sup>3</sup>, better known as the “Coexistence Byelaw” or “Civility Byelaw” (henceforth, CB), which we were commissioned to carry out by Barcelona City Council’s Area of Citizen Rights, Participation and Transparency.

The CB is an administrative regulation intended “to be an effective tool for dealing with new situations and circumstances that may affect and alter coexistence” and “to avoid all types of behaviour that may disturb coexistence and to minimise incivility in public spaces” (Preamble to the CB) To that end, it establishes a set of standards for behaviour in public spaces as well as the infringements, penalties and other specific interventions which correspond to each.

The aims of the research were to learn how the CB operates according to the operators tasked with applying it and to explore its effects on people in a situation of vulnerability, as well as groups and individuals classed as anti-social or other. The purpose of the study was to identify aspects relating to the application of the byelaw that were seen as ineffective, counter-productive, disproportionate, abusive, stigmatising or diverging from human rights standards.

### 1. Theoretical notes: public spaces, co-existence and right to the city.

Around 2005, the proclamation of civic behaviour or civility as a guiding value and normative ideal for community life in Barcelona underpinned the proposal to establish a regulatory framework for the uses of and interactions in public spaces shared by all citizens (OSDPH, 2008). This proposal was based on the realisation that public life out in the streets and squares is governed not only by harmony and peaceful relations between various social players but also by tension and conflict, in a frequent and particularly noticeable way, between players with several ways of interpreting, using and needing spaces in the city. The logic of civility then, is that it works as a mechanism for regulating community life in public spaces, on the assumption that pacifying conflict is one of its most characteristic traits.

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### 1.1. Coexistence conflicts in public spaces

Conflict is inherent in urban dynamics. Henri Lefebvre (1968) highlighted the central role of tension between population segments in heterogeneous social contexts in capitalist industrial cities, and he regarded conflict not as an abnormal breakdown in the urban equilibrium but as the inevitable affirmation of social change in cities as a great collective endeavour. In the same vein, authors such as David Harvey (2003) and Don Mitchell (2003) have pointed out the need to work with urban conflict as a tool for promoting radical social transformation processes that are capable of fostering the logic of independence towards the market and the shortcomings of the State, and of redressing the dynamics of injustice and social exclusion, as reflected in specific practices in public spaces from groups in a situation of vulnerability or non-normative life logics.

This critical vision of conflict points to one of the best-known controversies surrounding the promotion of civility and the censure of incivility as a mechanism for regulating behaviour in public spaces, and concerns the interpretation of coexistence conflicts as problems in themselves or as signs of deeper social problems. In the former case, they represent occasional disagreements, mismatches or confrontations that arise from different, simultaneous uses of public space that cause a nuisance to one of the parties involved when the parties are equal and free to choose their conduct (for example, skating in a square and bumping into someone). In the latter case, coexistence conflicts imply tensions relating to practices carried out by people in a vulnerable situation (legal, economic, work, social or material) who use public spaces as a means of survival, where the margin for freedom is significantly reduced or non-existent in the absence of reasonable, available alternatives (for example, sleeping on a bench because you have nowhere to live, or selling products informally on the streets because you do not have a work or residence permit). In conceptual terms, we speak of *conflicts over diversity* in the former case, and *conflicts over inequality*, in the latter (Di Masso, Dixon and Pol, 2011). Differentiating between them is key if we want to avoid over-penalising, criminalising and increasing the exclusion of groups that are vulnerable or have “non-normative” conceptions of what it is legitimate to do in public spaces. While conflicts over diversity arise from internal frictions in the “moral geography” of the included population, conflicts over inequality show the political map of exclusion (Sibley, 1995). So, whatever is good or bad to do in public spaces from a “good citizen” logic (that is, from the logic of civility) is unlikely to be seen in the same terms by groups that are regarded, in the hegemonic view, more as a problem for than a part of the citizenry (Staeheli and Thompson, 1997). Therefore, to be “(un)civic”, the right to the city and the privilege of inclusion must be guaranteed: certain civic duties towards the community cannot be equally required of people who are deprived of or have limited access to, under equal conditions, the basic civic right of legitimately belonging to the community that is calling for civility.

Either way, the conflicts and dynamics of coexistence in public spaces that are linked to the issue of civility usually revolve around uses of spaces that are perceived to be unsuitable, practices that are regarded as improper in public, occupations judged to be unacceptable in public places, attitudes considered to be disrespectful and forms of spacial control seen as inadmissible (Burte, 2003). In all these situations, the civility mechanism intervenes from the perspective of defending and promoting a normative standard geared towards redirecting a conflict towards a situation of peace and harmony, so that the boundaries of (in)correct, (in)admissible, (im)proper and (il)legitimate behaviour in public places can be established and defined, with compliance enforced, while helping to gradually shape a civic common sense based on apparently common precepts.

### 1.2. Coexistence and civility

The social representation of civility, in the case of Barcelona, has been very closely linked to several contexts that have marked the progressive social construction of the problem of incivility, in the last 15 years, from the initial institutional determination to raise public awareness of the nuisance caused by noise, dirt and occupation of the public highway (Plan for Promoting Civility, 2003-2006), followed by the approval and application of the Coexistence Byelaw (January 2006),

as a tool for sanctioning multiple types of behaviour of a diverse nature (OSPDH, 2008), to occasional amendments and variations in the way the aforementioned byelaw has been enforced in recent years. This social construction process, where anti-social behaviour or incivility has gone from being a practically non-existent concept in the public mind to being accepted as common sense, has involved the media and institutional campaigns, as well as everyday communication circuits and, from the cultural background, a legal view genealogically related to earlier legislation and firmly rooted in punitive and hygienist conceptions of public space (see the *Ley de vagos y maleantes* [Vagrancy Act] of 1933 or the *Ley sobre peligrosidad social y rehabilitación social* [Social Danger and Social Rehabilitation Act] of 1970).

From a conceptual point of view, civility has been defined as the everyday management of living together (Amin, 2006) and a distinction can be made between proximate and diffuse civility (Fyfe, Bannister and Kearns, 2006). In the case of the former, it means behaving correctly, in a tidy fashion, without any bad manners, a concept similar to what John Dixon, Mark Levine and Rob McAuley (2006) have called “moral decorum”. The latter recognises that the parameters we use to judge someone as right-moral or wrong-immoral relate to group subcultures and different structural factors, so diffuse civility is conceived as the attitude of considering the effects of our actions on others and taking care of spaces we share with others, regardless of the presence or not of others at that precise moment. (Fyfe *et al.*, 2006: 855). From that perspective, “diffuse” civility assumes that regulating one’s own behaviour is not conditioned by the physical presence of others with whom it is necessary to coordinate *in situ*; rather it implies a personal disposition to behave respectfully and show self-discipline in public spaces in general.

From a different perspective, Richard Boyd (2006) distinguishes between civility with formal connotations and civility with substantive connotations. Formal civility includes manifestations of attitudes and conduct associated with good manners, courtesy, respect and the formalities of everyday, face-to-face interaction, while substantive civility relates to belonging to a political community, where the very rights of citizenship may be exercised, required and requested. This latter meaning of civility relates to the conflicts over inequality referred to earlier, by creating a space which is not usual in the civic imagination by considering urban demonstrations that are civic and disrupt the established public order at the same time.

In the area of the Spanish State, Carolina Galais (2010) has proposed a distinction between passive and active civility. She believes that the former involves all respectful practices and attitudes, i.e. that do not interfere in the private space of other citizens and do not undermine coexistence [...] From that point of view, a civil citizen neither disturbs the peace and comfort of their neighbours nor needs to take great pains to improve them. (Galais, 2010: 25) In general, according to the author, passive civility relates to noise, dirt, vandalism, safety and security. By contrast, active civility covers all those practices and attitudes that help to improve the harmony, social cohesion and democratic autonomy of communities, so that active civic citizens not only abstain from doing things that may harm others but also take action to try and improve relations between people and the surroundings (Galais, 2010: 26). Galais thereby links passive civility to rights towards the community and to a negative conception of freedom based on respect for the other person's limits of the freedom (e.g. to rest and not to be disturbed by noise coming from the square). Active civility, on the other hand, relates to duties and a positive conception of freedom based on exercising it in relation to others (e.g. becoming actively involved in a community campaign to reduce noise.) Consequently, this conceptualisation leads to a comprehensive strategy for approaching civility, which is geared towards both ensuring passive civility (safety, security, respect, tolerance and understanding) and actively promoting involvement in the community for cohesion and through active participation.

### 1.3. The Post-Fordist city and ideological tensions in public space

Despite the aforementioned conceptualisations, civility and good coexistence are never invoked and promoted in the abstract but in the context of broad city policies and, more specifically, within the framework of specific policies for managing public space.

In the city context, it must be borne in mind that the evolution in the uses and regulation of coexistence in public space is closely linked to planned and unplanned changes of a demographic, economic, technological, urban development and cultural nature. In the specific case of Barcelona, the exponential increase in tourism, the variable flows of migrants, from differing origins and in changing numbers, urban development geared towards attracting private capital (property and companies from the technology sector) and the promotion of festivals, conferences and mass entertainment, among other structural vectors of urban transformation, have meant a gradual change in the ways in which shared space in the city is shaped, used, managed and controlled. In recent years, these factors have intervened forcefully in the structure of Barcelona's public and private urban spaces and in social composition, in line with the global flows of capital circulation and accumulation that characterise a Post-Fordist city (Groth and Corijn, 2005), which are based on competition between cities, the exploitation of monopolistic earnings from urban land, the "urbanicide" of public space and the streets (Harvey and Smith, 2005) and the economy of images and signs (Degen, 2008). This approach, as has been very strongly argued (Balibrea, 2004; Degen, 2008; Delgado, 2007), has gradually turned Barcelona into a "city brand", where social needs have come after the demands of the global market, a city characterised by a massive number of residential housing evictions, the destruction of whole neighbourhoods described as obsolete, a rise in the levels of poverty and exclusion, police attacks on immigrants without papers and repression meted out to the unruly. (Delgado, 2007: 14)

Putting more or less critical emphasis on the negative consequences of the controversial "Barcelona model" in its Post-Fordist phase of accumulation by dispossession (Harvey, 2004), the civility mechanism has been introduced and developed as another cog in that city logic. Regulating public space by means of the CB has put to the test a normative ideal according to which public space belongs to everyone and is for everyone, and does not belong to anyone, a normative ideal that shows itself to be contradictory in practice, as has been pointed out a number of times (Mitchell, 1995; Orum and Neal, 2010). More specifically, defining and regulating incivility raises four big ideological tensions intrinsic to public space that are problematic for the basic characteristics of the normative ideal (see Di Masso, 2015; Di Masso, Berroeta and Vidal, 2017):

- *Ideal of universal accessibility.* Common sense suggests that public space belongs to everyone, with no access restrictions. In practice, however, there are groups and individuals that are unable to access it under equal conditions, due to the space's architectural features or urban furniture, or because those groups and individuals are controlled, dispersed or expelled. Such circumstances point to a tension between inclusion and exclusion in a public space paradoxically impervious to the access of certain people as legitimate public types. From that point of view, it is not defined as the imaginary space of maximum inclusion and universal social integration but as the practical space with maximum effectiveness in naturalising forms of exclusion that are socially accepted.
- *Ideal of freedom of use.* It is a widely held belief that public space is a space of freedom, where the public can basically satisfy their desires for social relations. In practice, however, many coexistence conflicts involve powers to interfere in freedom itself and in the right to use public spaces and enjoy them undisturbed, for groups in a situation of diversity or a situation of inequality. In that regard, public space does not function as a space for actively promoting freedom but rather as a regulated space that continually restricts freedom. Public space is not so much defined by freedom of use as by constant tension, with variable intensity, between freedom and control.
- *Ideal of spontaneous appropriation.* Besides limits to freedom through various forms of control, public space is also said to be public because it can be put to uses that are more or less spontaneous and not planned. In practice, though, spontaneous appropriations of public space are limited by an acceptability in the institutional protocols of what is permitted, based on requests for permits, by the criteria of police officers responsible for applying the rules for

regulating public spaces, and by institutional initiatives in response to complaints from the public. In short, spontaneous appropriations of public spaces do not cause controversy if, paradoxically, they are overseen in some way by the State or if, where the latter does not intervene directly, they are mediated by performance in the market (practices that reproduce capital circulation). Spontaneous and unplanned ways of using public space that run parallel or contrary to the State or the market (for example, occupying a municipal land site indefinitely, moving or constructing urban furniture, or selling products informally) are subject to additional control. Such circumstances clearly show a *tension between social order and disorder*, the third ideological pillar of public space which expresses a conflict between institutional logics hegemonically linked to the “nomic” order and the self-regulated city-making forms associated, from the dominant ideological framework, with “anomic” disorder

- *Ideal of citizen space.* Public space is usually regarded as the natural arena for exercising citizenship; the setting where citizenship manifests itself in day-to-day things and “makes itself visible” on a daily basis, in festive occasions and large demonstrations. However, the routine functioning of public space shows us there are individuals and groups that are subject to supervision and control because of their status or situation (age, behaviour, country of origin, dress mode, gender, and so on.) As Joe Painter and Chris Philo (1995) argue, something is going wrong in the citizenship sphere if there are people who cannot occupy public space with peace of mind, even though they have not committed any crime or taken part in any illegal activity. De facto, then, public space functions in a way that establishes a hierarchy in the right to the city, so the “usual suspects” get less respect, recognition, acceptance and peace in public space than people who are regarded as ordinary citizens and accepted members of the legitimate public category (Crawford, 1995). In line with the tension between social inclusion and exclusion, public space is characterised not so much by the idea of citizen territory *par excellence* as by the practical fact of reproducing the logics of privilege and subordination in the internally differentiated and contested sphere of citizenship and right to the city.

#### 1.4. The right to the city and the right to exclude

To conclude this theoretical framework, we refer to the right to the city, a concept that connects public space policies with the regulatory designs of the democratic ideal. If public space is the natural space of citizenship, and citizenship, in the modern liberal tradition, is the status of legitimate belonging to a political community with rights, we understand the right to the city and the right to public space as essential prerequisites for exercising citizenship.

However, in line with the problematisation of the normative public space referred to above, the concept of citizenship frequently operates as a kind of ideological fetish, the “citizenism” (Delgado, 2016) that mystifies relationships of inequality between privileged publics and hierarchically subordinate counterpublics at the heart of an internally differentiated and contested citizen community. This idea enables us to assert that the right to the city, like other rights, may act as a discourse resource that legitimises excluding actions. However, the right to the city may also be used as a political horizon for overcoming inequalities that characterise the practical reality of many social collectives, as a common language with significant legitimising weight, useful for organising various types of demand and struggle in the name of the indisputable discourse of rights (Mitchell, 2003).

The European Charter for Safeguarding Human Rights in the City, which came out of the Barcelona Commitment (1998) and was approved in Saint Denis in 2000, implies legal recognition of the right to the city and its enforceability by the city authorities that are signatories to the Charter. More specifically, Article 1 recognises the city as a collective space belonging to all its inhabitants, who have the right to conditions which allow their own political, social and ecological development but which also means assuming the duties of solidarity. Likewise, it calls on local authorities to encourage, by all available means, respect for the dignity of all and quality of life of their inhabitants.

Within the framework of promoting civility the right to the city could be an important element for overcoming processes that reproduce exclusion and over-penalise inequality. The right to the city cannot only be understood as the right to participate in the proposals and possibilities that the city offers and to finding a space there but also as the right to demand and make a space for oneself in the city, to contribute to its transformation and emancipatory appropriation of citizenship. (Harvey, 2003). As we were saying at the start of this section, this conception of the right to the city understands public space not as an egalitarian space but as an eminently contested and conflictive space, characterised more by the normalisation of the exclusion of certain groups than by respect for and the inclusion of these groups. (Staeheli and Mitchell, 2008). This conception contends that, historically, public space has been characterised by some form of exclusion of "uncomfortable" groups (barbarians, foreigners, beggars, vagabonds, sex workers, and so on), and that what really makes public space *public* is the use, appropriation and direct transformation that the most disadvantaged groups do there to highlight their situation, achieve recognition and geographically articulate forms of political struggle for social justice. Consequently, the question of civility is intimately linked to regulating the practical possibilities of exercising, defending and demanding the right to the city, understood in the full sense as the right to use and to emancipatory appropriation of public space. This regulation is never neutral, but always implies a symbolic policy of a contested definition of the regulatory contours that set the limits to belonging to the category of citizen and of legitimate public uses.

## 2. Methodology of the study

The indicators offered us by the CB enforcement monitoring reports provide a large amount of data on perceptions of the state of the city, incidents, public complaints and demands, as well as on the interventions and activities carried out in public spaces by municipal operators from the social intervention area, cleaning and maintenance, and the police. These indicators are useful for evaluating the action of municipal operators but insufficient for finding out the consequences of applying the byelaw has on coexistence or its impact on the basic rights of people who are penalised. The study presented here has therefore analysed, on the one hand, the secondary data produced by municipal operators over the direct application of the CB (number and breakdown of infringements reported by the city police and the fines processed by the Municipal Tax Office). And on the other hand, it has adopted an empirical approach of fieldwork for bringing together the main and most varied voices round the CB as a tool for regulating coexistence in public spaces.

The purpose of this fieldwork was to gather significant, quality information on the perceptions and evaluations of how the CB operates from the main actors involved in its application. In this context, the methodological framework adopted was the one suited to qualitative research from an interpretative epistemological perspective (Silverman, 2005). From that logic, the type of knowledge contributed was ideographic and contextual. It was therefore geared to producing a framework for understanding specific cases and phenomena situated in a certain place and time, not necessarily valid for or applicable to other cases, contexts and times.

The sample was propositional or intentional for critical cases (Flick, 2006); in other words, the participants chosen were those who best reflect the critical aspects that have a bearing on the research or are particularly relevant for the functioning of a programme or intervention (the CB in this case).

The study had a *synchronic* dimension (knowing what is happening now as regards the functioning of the CB) and above all a *diachronic* one (knowing how it functioned in 10 years of application). The group of participants, then, included people regularly affected by the CB or particularly sensitive to the fact that it affects them, such as the entities, organisations, municipal managers and operators who, in line with their professional role, can provide this information with a time perspective.

The fieldwork was carried out between September and December 2016 by a team of five researchers<sup>4</sup> with previous experience of conducting qualitative interviews. More specifically, 18 semi-structured individual interviews were conducted, along with 14 semi-structured group interviews and three participant observation sessions, which adds up to a total of 60 people with the following roles, positions and situations:

**Table 1. Groups particularly affected and likely to be affected by the CB (people and entities). 2016.**

Type of participant	Sphere and participant
Groups that may be affected by the CB in a situation of social inequality	<b>Homelessness</b> 2 homeless people. 1 person from the Arrels Foundation (care for homeless people).
	<b>Street hawking</b> 4 street hawkers (2 <i>llaners</i> (unlicensed canned-drink sellers) and 2 <i>manterers</i> (unlicensed street hawkers who display their goods on a blanket), one of whom is a member of their union, the Sindicat de Manters).
	<b>Informal collection of scrap metal</b> 2 people who collect scrap metal (one is a representative of the African collective).
	<b>Sex work</b> 2 sex workers (Putas Indignadas). 1 person from the Àmbit Previsió Foundation - Àmbit Dona Team (sex work). 1 person from Lloc de la Dona - Germanes Oblates ("Women and Prostitution" programme).
Groups that may be affected by the CB in a situation of social inequality	1 person from the Associació per a la Defensa del Dret a la Nuesa (ADDAN - Association for the Defence of the Right to Nudity).
	3 skaters
	4 buskers
	Groups of young people enjoying night-time leisure activities in public space.

**Table 2. Municipal operators. 2016**

Type of participant	Sphere and participant
Municipal managers and technical staff	<b>Institutional managers</b> 4 district managers (Gràcia, Ciutat Vella, Sants-Montjuïc and Nou Barris). 2 people from the Prevention and Security Department. 1 person from the Life Cycles, Feminisms and LGBTI Department. 1 person from the Conflict Management Service (Social Intervention in Public Space). 2 people from the Municipal Tax Office.
	<b>District prevention and coexistence technical staff</b> 8 district prevention experts (Ciutat Vella, Gràcia, Les Corts, Horta-Guinardó, L'Eixample, Nou Barris, Sants-Montjuïc and Sant Martí).
	3 district civility and coexistence experts during the years of the Plan for Promoting Civility and one year after (2003-2007).
Professionals in the social action in public space sphere	2 people from the Conflict Management Service (Social Intervention in Public Space).
	1 person from the Social Integration Service (SIS).
	4 civic agents or promoters (Gràcia).
	5 street educators (Zona Nord, Nou Barris, El Carmel and the middle of La Meridiana).
Police officers	2 officers from the Guàrdia Urbana Territorial Unit in Ciutat Vella.
Right-guarantee instruments	2 people from the Barcelona Ombudsman's Office.
	1 person from the Institute of Childhood and Adolescence.

The empirical material gathered from the interviews and participants' observations have been wholly transcribed, codified and analysed in accordance with the subject analysis guidelines. (Braun & Clarke, 2006, 2013) That has enabled us to produce a thematic synthesis which draws together the main lines that provide a structure to the accounts obtained in relation to the subject of the research.

### 3. Results

The perceptions and evaluations of the functioning of the CB are arranged in four large content subject areas:

- a) Evolution and changes in public space dynamics in the course of the last ten years.

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- b) The nature, content and functions of the CB as the general rationale behind regulating coexistence in public space.
- c) CB enforcement, that is, what happens in practice when coexistence is regulated by this byelaw.
- d) The effects and consequences of enforcing the CB on groups that may be affected, as well as the broader consequences of the regulatory patterns of CB enforcement on the actual uses of public space.

### 3.1. Evolution and changes in public space dynamics

The social reality and public space on which the CB was conceived have changed significantly over time and continue to change as a result of social, economic, demographic, legal, urban and cultural transformations. All these factors have influenced the perception that the public have of the main problems facing Barcelona. The results of the Barcelona City Council Survey on Municipal Services show that, while the most serious problem in the city for a significant number of people surveyed in 2006 was insecurity, followed by cleaning and problems associated with immigration, the most common problem in 2016 was unemployment and working conditions, followed in second place by the problems generated by tourism and those caused by traffic.

Not only have people's concerns changed, so too have the dynamics of public space. More specifically, the various sectors interviewed say that the most common coexistence conflicts today are linked to noise, bicycles and pet ownership, mass tourism (especially in specific parts of the city), cultural and generational clashes between the native and migrant populations in certain neighbourhoods, and the night-time leisure model, among other factors. Changes linked to the economic crisis have also occurred and given rise to coexistence problems of a social nature (new profiles of homeless people, collecting cardboard with vans, new settlements, an increase in the amount of street hawking, a reduction in the clientèle of sex workers, and so on).

There is an overall consensus that serious differences exist between what is regulated and the realities that define public space today, as well as on some of the shortcomings of a regulation that in several respects is out of date and therefore needs revising and amending.

### 3.2. Nature, content and functions of the CB

The CB is an administrative regulation with a municipal scope that includes many different types of behaviour which appear to have little in common, except for the fact they have been identified as anti-social. For example, undermining a person's dignity; visual damage to the urban environment (graffiti, painting and other forms of graphic expression such as placards, poster or flyers); gambling; playing games not suited to public spaces; behaviour in the form of begging or which implies the use of public space for offering and soliciting sexual services; performing physiological needs; consuming alcoholic beverages; unlicensed street trading or hawking; unauthorised activities and services; improper use of public spaces; vandalising street furniture; contributing to the deterioration of urban space, and other kinds of behaviour that threaten civic coexistence in natural areas and green spaces, such as noise pollution. In the above list we can find phenomena arising from social breakdown or exclusion (conflicts due to inequality), criminal activities (vandalism) and conduct linked to certain uses of space or to leisure (conflicts over diversity), for which fines of a specific amount are set.

With regard to the byelaw's functions, the accounts of the participants in the research vary, depending on the relationship the operators have with the CB. The police highlight the need for a public space regulation that enables actions to be reported and allows them to seize certain items as a preventive measure, while the socio-educational sphere take a positive view of the CB as a framework for establishing citizen rights and duties. Although the usefulness, effectiveness and



intended function of the current CB are broadly questioned, the general view is that a regulatory framework is needed to ensure civic coexistence in public spaces.

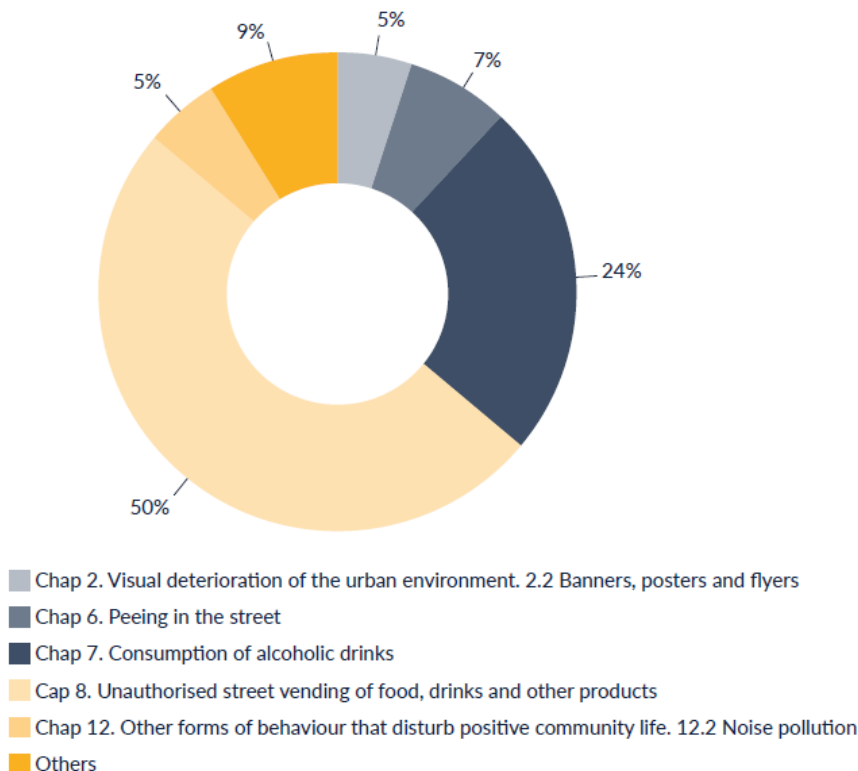
There is also a general consensus among the various sectors interviewed on the need to increase public sensitivity towards situations of vulnerability, so there is a clear differentiation between the way they are treated and conduct associated with diversity and leisure; so people are not excessively penalised and these situations are not directly included in the CB.

As regards its content, one point that was highlighted is that the CB uses concepts and expressions that are difficult to specify, which undermines the principle of legal certainty due to the lack of precision when describing unlawful conduct. Nor does the byelaw clearly define the harm caused to coexistence by certain forms of behaviour and not others (the definition of protected legal interest is rather vague) and that creates enforcement difficulties.

### 3.3. The CB's application

Barcelona's city police force, the Guàrdia Urbana de Barcelona (GUB), reported approximately 102,855 infringements a year between 2007 and 2016 (in 2013 the figure reached 137,942). Over 50% of these reported infringements were committed in Ciutat Vella for each of those years. The other districts with the most reported infringements after that were Sant Martí (12%) and L'Eixample (10%), followed by Sants-Montjuïc (7%) and Gràcia (7%). In the other districts (Les Corts, Sarrià - Sant Gervasi, Horta-Guinardó, Nou Barris and Sant Andreu), the figure did not reach 3% of the total number of reported infringements for the whole city (Manager's Office for Security and Prevention, Barcelona City Council). The following chart shows the distribution, by byelaw chapter, of the average number of infringements reported between 2006 and 2016.

**Chart 1: Average number of reported infringements per byelaw chapter (%) Barcelona. 2006-2016**



Source: Original. Data from the Manager's Office for Security and Prevention

The distribution of infringements reported per chapter during the ten-year application of the CB studied in this paper was very unequal. More specifically, Chapter 8, on unauthorised street selling of food, drinks and other products, which includes the sale and supply as well purchase of these

products, was by far the main ground of reported infringements (50%), followed by consumption of alcoholic beverages (24%) and urinating or defecating on the street (7%). Reported infringements for putting up placards and posters, or handing out leaflets, as well as noise pollution, were also the grounds for frequent fines under the CB (5% in each case), while the other seven chapters of the byelaw accounted for an average of 9% of the reports.

Civility policies were not equally applied over those years. If we take the infringements reported over the last two years (2015 and 2016) for the entire the city as our benchmark, we find the proportion of those for street hawking and consumption of alcoholic drinks went up compared to the others. The proportions of reported infringements for urinating or defecating in the street and for noise pollution remained much the same as those for the previous years, whereas the proportions of Chapter 2-related reported infringements, for causing visual deterioration of the environment (placards, posters and leaflets), declined. That means, more than 95% of total number of reported infringements were based on four of the CB's twelve chapters in the years 2015 and 2016.

Note too that the highest number of reported infringements during those years was between the months of May, June, July, August and September, and came from the night-time police units. We can therefore confirm from these data that a large part of city police activity relating to the application the CB was concentrated on reporting infringements for conduct associated with night-time recreation, involving the consumption of alcoholic drinks out in the street (above all, in the city's more central neighbourhoods and during the summer months), as well as the sale of canned drinks and urinating or defecating in the streets associated with that.

Police work has always been guided by selective criteria and it could not be otherwise, given their limited resources and the number of officers, the scope of the legal system and the enormous number of situations that could arise (Reiner, 2010). That fact means it is impossible for the police to deal with all the illegal acts that can take place in a given area, or even those they know about. On the contrary, they have to act at their discretion and under established guidelines. As Agustín Yñíguez Navas (2007) maintains, their discretionary power is generally applied to minor criminal infringements (minor offences that take place in confused or unclear circumstances) and especially administrative infringements, such as those contained in municipal byelaws. This discretionary power enables the police to respond flexibly to regulations, procedures and ambiguous situations, avoid giving an automatic response and choose the option best suited to compliance with the law.

That is why it must be borne in mind that the figures for infringements under the various CB chapters, far from reflecting the state of coexistence in the city, show us which areas police reporting has been focused on, which could have varied, depending on the priorities set for each district and period. It was here that those interviewed told us that throughout the period police actions had been varied in attitude, conduct, procedures and intensity and been variable at the time, depending on the places, groups and situations.

According to the people interviewed, Barcelona's city police had managed public spaces combining different police strategies. That ranged from the classical reactions after the event to situations already reported, to community policing actions, based on interrelating with a variety of social players, including local residents (with a favourable attitude to dialogue, a friendly approach and understanding on the part of the police), in order to boost prevention. We also found police actions similar to dispersal strategies (Walby and Lipet, 2012), often based on experience and technical analysis of situations, that were designed to avoid the accumulation of people who might be carrying out forbidden activities in certain areas. We refer, for example, to the deterrent police presence in strategic places at specific times (hotspots), in Gràcia or Ciutat Vella, where the presence of police cars in squares prevents people from gathering together to drink in the street, without the need for reporting anyone. This type of strategy, of dispersing people, or even expelling them from public places, was also noted in cases of social vulnerability and as a form of control, not directly penalising them but certainly making them more vulnerable, as it prevents forms of

subsistence in public spaces without offering an alternative (sex workers, street hawkers and homeless people). Finally, various accounts show how, sometimes, young people from outlying neighbourhoods, skaters and streets sellers have been fined repeatedly for things which, even though they are punishable, are not a nuisance to anyone (e.g. playing music or games in a square). This strategy, based on maintaining order by taking firm action against little disorders provoked by certain risk groups, reminds us of what are known as zero tolerance strategies (to prevent bigger problems).

During the interviews, some of the groups most affected by the CB, such as sex workers and street hawkers, complained they had suffered police abuse, humiliation, dehumanising treatment and intimidation. Sex workers have an ambivalent relationship with the police. They complain about police repression and intimidation of their clients but they also demand a police presence so they feel protected. As for streets hawkers, those we interviewed spoke of police aggression that consisted of beatings, being hit with a truncheon or pushed against a wall and persecution, besides having their goods and money seized.

We recorded cases of people being fined and not fined for the same behaviour at the same time and in the same place, of wrong fines (for things they had not done) and incongruous fines (for drinking on the street during a local festival). The variable nature of police actions, as a result of the byelaw's vagueness and necessary police discretion, which implies adapting action criteria according to the circumstances, sometimes leads to circumstances that are perceived as arbitrary (outside the byelaw) by the people fined or when police abuse goes unpunished. According to the hawkers' accounts, "they do what they feel like and leave". These situations could undermine people's legal security and end up being arbitrary or discriminatory.

The city police force is not the only institutional operator that takes part in public space management by making use of the CB. We also find non-punitive actions, more or less effective depending on the context and the type of action, that were carried out by civic officers, street social educators and mediation teams. Street educators use the CB to work with young people, by raising their awareness, monitoring and supporting them on the basis of proximity, familiarity and trust, so they can work on controversial behaviour. Civic officers perform different functions, depending on the area. They have been criticised for not transmitting authority, and it is felt it would not be opportune to give them educational tasks, although they are useful for carrying out logistical tasks (e.g. regulating tourist flows at the Sagrada Família) and cooperating with the police (e.g. informing people about controversial behaviour, places and dynamics).

Another strategy municipal operators intervene in to manage coexistence, besides enforcing the CB, consists in bureaucratising public space, i.e. in authorising certain activities in some zones (zoning) and granting permits. The results of these actions are mixed: Some of the people interviewed were willing to receive such forms of authorisation to use public spaces without fear of being penalised but, at the same time, they feel there is a lack of clarity in the processes for obtaining them (in the case of street music); that zoning does not always take the groups involved into account (such as the skaters) and that these processes, although they are not viewed negatively, are often a pretext for persecuting more forcefully forms of behaviour that remain excluded.

The reaction of the social environment when faced with coexistence conflicts or the problems that occur in public spaces is a very important factor in selecting the behaviour and places that will be subject to police or social intervention. The interviews have shown us that information and complaints from local residents and businesses, especially those from influential groups received directly by the districts or the Mayor's Office, are often the driving force behind the initiatives for managing public spaces. Complaints from the public relating to coexistence, which are mainly conveyed through the police information and help lines (092 and 112), repeatedly serve to justify police interventions. Although the demands of the public often have no direct relationship with the police's activities, new complaints are sometimes made if the police fail to take action.

As for the person or group the CB applies to, there are situations where, whether they agree with the reason for the fine or not, they accept it and the consequences. Others try to mediate or speak with the police to avoid fines, identifications and other types of situations. Likewise, there are people who, faced with a fine, the seizure of goods or police aggression, adopt resistance strategies, both physical (e.g. struggle with the police) and political, by forming a group with others who are in the same situation so they can make themselves visible with the capacity to challenge the institutions (e.g. the *Sindicat de Manters* or the sexual worker collectives).

### 3.4. Effects and consequences of the application

The commonest direct effect of a reported infringement of the CB is the imposition of a penalty, which frequently takes the form of a fine. However, the effects of the CB's application go beyond that and often include a series of legal and economic effects that may increase the precariousness and vulnerability of the people penalised and provoke significant psychological and social effects, as well as having negative repercussions on the uses of public space as such.

#### 3.4.1. Legal and economic effects

Once someone has been reported by the city police, the City Council starts proceedings to collect a fine from them, under the corresponding procedure (fast-track for minor offences and ordinary for serious and very serious offences).

Fines not only affect the people actually being penalised. When they are meted out to clients in the case of street hawking and sex work, they have a direct impact on the possibility of the workers, often in a vulnerable situation, to obtain an income. Therefore, they can find themselves in a more precarious economic situation and, in the case of sex work, women may expose themselves to greater risks to make up for the difficulties they have in contacting their clients.

The amount of the fines is often seen as excessive both by the people fined and the municipal operators. Although the CB (Article 88) provides for some criteria for grading the penalty according to, among other factors, the seriousness of the offence, whether it was intentional, the nature of the harm or damage caused, whether it was a repeat offence and the ability of the person concerned to pay, it has been seen that, in practice, these criteria are not applied and the amounts are set by almost automatic processes that leave very little margin for establishing the specific circumstances of the cases, the individuals or the damage caused by the offending conduct. Such circumstances are contrary to the principle of proportionality.

The large fines imposed mean there are people who have no intention of paying them and, as Barcelona's ombudsman noted, this reduces the byelaw's effectiveness and increases the inefficiency of the local administration, which is imposing a large number of non-collectable fines. Processing coexistence fines represents a huge cost for Barcelona City Council (personnel, notifications, administration, print-outs, and so on) which, in most cases, it does not recover through payment of the penalty. Very few of the cases processed that end in a fine result in the City Council collecting it. For example, between 2012 and 2015, the percentage of fines paid varied between 39% in 2013 and 30% in 2014. The non-payment percentage is especially high in the case of certain offences, such as street hawking, which, as has been seen, represents more than 50% of all reported CB infringements, and, in general, those relating to social exclusion and situations of vulnerability.

But the fact that the fines are not paid does not mean they have no effect on the people concerned. For people in an economically vulnerable situation, it might mean a series of added disadvantages, such as making it impossible to access grants as a result of being in debt to the local authority, or it might act as a disincentive to finding work, in the case of young people repeatedly fined or fined large amounts and who are worried their wages will be embargoed.

It should also be borne in mind that not everyone who is reported is fined. Some offences reported do not reach the processing stage due to a technicality, for example, to a lack of information for starting proceedings, or the fact that the offending person is a non-resident foreign national. When referring to non-resident foreign nationals, we need to think of tourists and not migrants (the latter usually live somewhere in the city or its surroundings, whether they have a residence permit or not). Given that, at present, penalty notices are not sent outside the Spanish State, if the person does not pay the fine when they are handed the notice, it ends up being cancelled due to the impossibility of starting proceedings. In 2013, 2014 and 2015, the number of coexistence fines imposed on non-resident foreign nationals did not represent a very high number of the total (3%, 5% and 6%, respectively) but these figures have been steadily rising (Municipal Tax Office).

There is also the option of replacing fines with educational measures and community service (Article 93), or even cancelling them. However, not all fines can be substituted in this way.<sup>5</sup> The limited types of fines that can be substituted - for example, for street hawking, which account for about 50% of all reported infringements, do not fall within that category - as well as the practical difficulties facing technical prevention staff (especially in contacting the people who have been fined) means that the number of penalties substituted with community service measures in recent years has been very low. For example, of the 294 substitution applications in Barcelona's 10 districts in 2015, only 0.12% were approved and implemented. Also, as explained by the district prevention staff in charge of implementing substitution measures, the current way of handing these punishments means there are limits as regards their educational purpose, due to the delays in processing them, the number of hours of the actions proposed, the educational possibilities, the stigmatisation of the measures, and so on. The potential of these kinds of measures in terms of fostering and promoting civility and coexistence, as well as the possibility of reducing the economic impact of applying the punishments, are factors that are viewed very positively by both the people being punished and the street educators, although, given the nature of this measure, the latter motive ought not to be the most important when opting for an educational measure. For the organisations that work with people in socially vulnerable situations, the issue is not so clear. Those that offer support to sex workers regard these measures as totally misplaced, even absurd because of a conceptual error, since there is no sense in making a person who has been fined for being poor carry out a measure to change their anti-social attitude. In the case of homeless people, there is no consensus.

Even if certain types of conduct are reported, there exists the possibility of halting the penalty proceedings and no fine ending up being imposed. In various accounts on disproportionate fines, the same person accumulating fines or people in vulnerable situations being fined, the comment was made that when the ombudsman intervened to denounce the situation, these fines were often cancelled by municipal authority itself. However, while the cancellation of these fines alleviates the negative consequences they could involve, especially for people in a vulnerable situation (embargoes, denial of benefits, etc.) the fact that the person fined has to have some sort of contact with that authority so it can "pardon" the fine could represent discriminatory treatment and imply a lack of legal security.

The CB also provides for so-called *specific interventions* which, together with some social measures, frequently consist of the possibility of preventively removing and seizing the materials or instruments used in the infringing behaviour and confiscating the goods and items that are the purpose of the infringement or serve directly or indirectly to perpetrate it, as well as the money, fruits or products obtained from the infringing activity. (Article 101). This legal provision implies that the police have to make a highly questionable assumption from a legal point of view, namely, whether or not the money someone has on their person has come from a banned activity. The

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<sup>5</sup> Under the terms of the Mayoral Decree of 10 October 2013, fines for serious and very serious infringements, such as those relating to activities subject to authorisation or a licence, or which are the result of carrying out regulated business or professional activities, are excluded from this possibility.

people involved in street hawking, busking or sex work said there were times when police officers had seized their goods, their musical instruments and their money.

The concept of confiscation as a precautionary measure is a controversial one, especially in cases where the above-mentioned procedure is not taken to a conclusion. In addition, the regulation for confiscating earnings derived from the byelaw infringements does not establish any rule that enables the illegal origin of the sums of money subject to confiscation to be discerned. Furthermore, the main weakness of the regulation lies in the fact that there is no rule for proportionality similar to the one established for much more serious cases by Article 128 of the Penal Code, which prevents indiscriminate application, even more so at the precautionary stage of the confiscation. This is a worrying circumstance if we take into account that the confiscated goods can include the goods of a licit trade (skateboards, musical instruments, etc.) whose value may not be proportionated to the infringement and could even belong to third parties not involved in the infringing behaviour. Such actions produce a feeling of great injustice among these groups which increases their lack of confidence in the police and security forces, thus making it more difficult to manage possible conflict situations on the basis of dialogue and maybe even escalating the conflicts.

#### 3.4.2. Psycho-social and socio-spatial effects

Apart from their objectifiable legal and economic impact, the punitive actions carried out or demanded under the law also imply an additional social punishment and symbolic marking that have psycho-social effects on the people who are fined or who are the usual control targets from the regulatory perspective of the CB. The fact that there is a municipal regulation in the form of a byelaw sets public opinion against previously stigmatised identities and, from the legitimacy of the law, reinforces the degradation of the morality and identity of groups in a situation of poverty and marginalisation, and who avail themselves of public places for unregulated uses. Furthermore, the CB opens the door to criminalising these socially marked groups because the procedures it uses (fines, community service work, police interventions, etc.) enables administrative offences to be equated with minor criminal offences, blurring the social boundaries between an uncivic person and a criminal. Finally, the fact that the citizenry can formulate demands for local-authority and police action in the legitimate application of a CB that revolves round penalising people as the normal procedure could be encouraging norms for relations between neighbours and between citizens and the local authority that are based more on informing and reporting, mistrust and a dependency on institutional authority than on co-responsibility, social support and self-management of conflict and coexistence.

More specifically, from the discourses of the people who took part in the study, the following psycho-social impacts of the CB can be identified:

##### a) Stigmatisation and criminalisation of groups in vulnerable situations

Non-compliance with the CB leads to an intensification of the negative marking of sex workers (a regular target of prejudice and discrimination for reasons of their alien status, "race" and gender). Also noticeable is the additional labelling of people with mental health problems who use public places intensively (living or sleeping on the street, stopping local people and offering them things, etc.) and a greater rejection of homeless people because of their subsistence activities which are punishable under the CB (sleeping, physiological needs, washing in fountains, etc.) In general, it is clear that situations of poverty and exclusion are being tackled from a logic of formal control and punishment which, within the procedural framework of the CB, is akin to the logic of criminal treatment (especially in the case of the street sellers).

##### b) Impact on the self-perception and behaviour of people who are fined

The fact of being a regular control target in public places, added to that of being repeatedly fined, has some negative implications for identity which are associated with a gradual internalisation of the stigma of criminality, both in the specific case of collectives in a situation of vulnerability (e.g. street sellers and sex workers) and that of young skaters or buskers who accumulate regular police identifications, fines, confiscations, embargoed accounts and administrative procedures derived

from the sanction. There are also situations of helplessness experienced by people who have been the target of what are perceived as arbitrary police actions. Not being able to anticipate or being clear about when and under what circumstances the same behaviour will be penalised or not, the persons concerned tend to feel there is no relation between what they might do and what might happen, and that increases the feeling of insecurity and vulnerability. Directly related to that is a perception of injustice and a lack of freedom when faced with fines for which they do not share the reason or are seen as unjust. The effects of psychological reactance can also be observed, which means that the perception of a restriction of degrees of freedom imposed by a source of authority not regarded as legitimate or fair tends to provoke the intention of wanting to restore the freedom lost and increasing the behaviour censured by the source of authority. This reaction could explain the rise in tension in the interaction with the police when goods, money or musical instruments are confiscated, i.e. when there are significant losses of money and informal means of work. The feeling of unfair control is most clearly felt among buskers, skaters and hawkers.

There is also a demand for more autonomy in the use of public space in the name of “responsible freedom” to carry out activities such as playing music or drinking alcohol, as opposed to continuous forms of coercion and control considered to be unjustified. A citizen has to be able to be responsible for their own conduct. It is not infrequent for them to show active resistance to paying fines when they have no money (e.g. not putting money in a current account to avoid having it frozen). In some cases people adapt to the fine and look for alternatives that enable them to continue with their activity, even though it might be punishable. Musicians buy cheap instruments so they do not have to meet the high costs of trying to recover an instrument seized, which would mean paying for the number of days it has been stored plus the fine which caused it to be confiscated. Adapting to the punishment therefore neutralises the intended effects of dissuasion and eliminating the punishable behaviour. As regards health, sex workers talk of the possible increase in the risk of diseases and other negative effects, basically HIV and other infections, because clients are more at risk of being fined and demand sex in conditions which are less safe for the women. Street hawkers talk of suffering the physical consequences of police mistreatment and affects on their health (back injuries caused by the weight of the goods).

#### c) Impact of formal control on relations in the community

There are reports of discrimination from residents organised in associations who act under the protection of the law (e.g. against sex work), as well as the racist prejudice of individuals who channel their rejection along the legitimate and “de-racialised” lines offered by the civility mechanism (e.g. phoning the police because “there’s a blackie selling round here”). In both cases, an extension can be observed of the formal control over punishable behaviour towards the organised and unorganised citizenry, which has the perverse effect of setting up channels for reporting and rejecting in the name of civility, but which extend the discriminatory logics of xenophobia-racism. Police officers frequently justify the control they exercise over certain behaviours and collectives by referring to the complaints of local residents who have reported or protested against them. The use of reports and formal complaints by a sector of the citizenry (associations, commercial establishments or individual citizens) against the activities of other people (groups in a precarious situation who use public space intensively or groups who make non-regulatory uses of it) normalises relationships of mistrust, processes of citizens informing on other citizens and calls for action on the part of formal external control agencies before any form of possible understanding between people in the neighbourhood. These relationship dynamics mean the community tends towards logics of fragmentation and social tension, and not towards optimal conditions of cohesion and mutuality typically associated with informal control as a preventive mechanism for problems of coexistence.

#### d) Effects of legitimising exclusive postures on public opinion

The existence of a municipal byelaw that penalises, within the same legal framework, behaviour linked to leisure and the free use of public space and behaviour linked to inequality and poverty, helps to create and normalise a negative public opinion of groups in a disadvantaged legal and socio-economic situation. So, within the framework of the debate on the right to the city and the right to the public space, the CB promotes what we might call *exclusive policies of belonging*. The

most vulnerable groups are conceived as non-citizens, people whose identity puts them outside the symbolic limits of the legitimate character of residents, and who are regarded more as a problem for the public and citizenship than as an integral part of the citizenry (sex workers, homeless people, hawkers, young people). In the same vein, we see the use of the label *uncivic* as an excuse for xenophobic discrimination (“foreign people are *uncivic*”), and there is criticism of the fact that people are made to do community service work who are not treated as part of the community (homeless people, sex workers) and duties are demanded of them without awarding them basic rights. Finally, it is pointed out that the problem of incivility is always viewed from the perspective of the included citizenry and not from the right to the city of a person in a vulnerable situation.

e) Effects on the perception and relationship between the local authority and the public  
 One of the stated aims of the CB is to promote the value of co-responsibility in exercising and ensuring community coexistence. But political, technical and police comments, as well as those of the groups interviewed, suggest a significant diffusion of responsibility in the management of public space. The political authority issues directives but does not implement them; the technical administration designs actions in accordance with the directives they receive; police officers use the text of the law as a guide for action, and civic officers merely take action on behaviour related to the tasks they have been assigned. Furthermore, actions to deal with and control incivility often respond to public complaints and are justified by citing that as the reason. Public complaints noticeably grounded in a criticism of action or lack of action on the part of the authorities and not in promoting public responsibility for fostering community coexistence. This structure of a diffusion of responsibilities is clear in accounts where the responsibility for actions always lies with someone else. We could describe this situation as an Argentinian State (Milgram, 1973) of various institutional actors and operators, which is characterised by a situation where what is correct and responsible relates more to adequately performing a role for others in a hierarchical chain of obedience rather than with the actual consequences actions to regulate behaviour have on the person affected. Thus, the responsibility for the real impact on the person punished is never attributable to a specific point in the chain and is always justified by claiming to be carrying out a role that always seems to depend on another authority. Within the framework of a diffusion of responsibilities, the CB is sometimes seen to encourage relationships based on dependence, individualism and paternalism, by means of a culture of reporting and complaining to the Administration so they “solve” the problem “for me”, and solve it “for me first”. Criticism is also raised of a tendency for the police to take over social control in public places and, sometimes, it is felt the *Guàrdia Urbana*, the city police, have too much power, because their scope for discretion can have very significant penalising effects in the legal arena. Finally, it is pointed out that the CB could encourage a tendency to control and punish groups predefined as probable offenders in line with its provisions and the statistics previously mentioned, thus reinforcing stigmatising and criminalising stereotypes and markings.

f) Socio-spatial effects

The CB is conceived and applied as a tool for regulating behaviour in public places. (In)civility and its regulation have an important geographic dimension in two inter-related senses in the accounts of participants in the study. First, punishable types of behaviour (urinating, making a noise, offering sex in exchange for money, etc.) are regarded as punishable because they are morally inappropriate for public places, i.e. they are censurable and inadmissible by virtue of taking place in a setting where it is considered they should not take place (public places, places for civility). Second, the regulation and control of incivility often means mechanisms for managing physical space and its use and movement in it (dispersal, zoning, confinement, expulsion, etc.). Therefore, the CB not only intervenes from the punishment angle but also through territorial control actions that result in the geographic re-distribution of punishable uses while, in many cases, leaving their occurrence intact.

Thus, we can see a marked tendency to disperse and displace problems around the urban space, without tackling the underlying social problems, especially in the case of homeless people, street hawkers and re-collectors. There is also a tendency to resort to punishable behaviour outside the



permitted time or by congregating in less space to make the most of rush hours and the most crowded places (mass of hawkers and buskers). Some participants also report facing situations of increased vulnerability due to having to find hiding places on the streets or in private spaces (as in the case of sex work). Skaters take a positive view of zoning skating by allowing it in certain places, even though they increase the control outside exercised outside these spaces, but they express criticism of the “anti-skating” design of urban furniture. The Administration’s determination to remove certain practices from public places considered undesirable in practically “hygienist” terms (activities that make them “unsightly”) is condemned.

#### 4. Conclusions

The CB has had a mixed effect in the ten years it has been in force. It has created a regulatory framework and generated a broad social debate that has enabled us to highlight and rethink the possibilities and limits of the institutional regulation of coexistence in public places, on which there is a consensus that it is both necessary and appropriate. However, the public space on which the CB was conceived in 2006 has changed significantly over time and it continues to change due to the socio-economic situation and the political changes that have taken place in recent years. That means its provisions are not suited to current needs. From the specific perspective of promoting the right to the city, and from a viewpoint that questions the normative ideal of public space (Harvey, 2003; Mitchell, 2003), the current CB provisions cover types of conduct already included in other municipal byelaws; they use imprecise legal concepts or expressions that are difficult to specify and undermine the principle of legal security due to a certain ambiguity in describing types of conduct that infringe the byelaw, and they fail to give a clear definition of protected legal interest. From the study carried out, it can be concluded that, in general, the CB does not achieve the aim of reducing undesirable attitudes and behaviour by means of a fine, whether the amounts are raised or lowered, although fines can be useful for types of conduct not linked to subsistence and following period of raising awareness, warning and offering alternatives. Repeated examples can be found of police actions to enforce the CB that are perceived as arbitrary and cannot be attributed to a discretionary interpretation that is proportional to the specific situation. The CB often has the effect of over-penalising the people affected and making them hyper-vulnerable when they are already in a situation of social and economic inequality, both in legal and economic terms. Sometimes it has increased the stigma of groups that are socially marked and tended to criminalise non-criminal uses of public space. In community terms, there are experiences of using the CB as a tool for initiating an inclusive social action strategy and not as a coercive instrument, but in general it is questioned whether the CB responds to a civility model based on joint citizen responsibility and social cohesion rather than, on the contrary, encouraging dynamics of mistrust and the diffusion of responsibility and mistrust, reinforcing exclusive identity boundaries in the heart of a plural community of “publics” and produces territorial effects that move social behaviours and problems on without properly tackling the causes.

On the whole, we conclude that the current provisions of the Civic Behaviour Byelaw and the ways they are enforced prevent some of Barcelona’s inhabitants from finding the conditions for political and social development in the city, because their dignity and quality of life, instead of being enhanced, end up deteriorating as a consequence of this regulation. For those reasons, we understand there is an urgent need to amend the byelaw and adopt a different approach to coexistence in public places that overcomes the civility idea and moves on to the right to the city.

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