



## **UN Special Rapporteur on adequate housing**

Office of the High Commissioner for Human Rights  
Special Procedures Branch, Palais Wilson  
CH – 1211, Geneva - Switzerland

### **Informal settlements and human rights**

#### **Questionnaire**

**Question 1. Please provide statistical data on the numbers of people living in informal settlements, clarifying the definitions used and including disaggregated data by relevant characteristics (gender, disability, age, etc.) where available. Provide estimates of the number of households renting within informal settlements.**

According to the 2010 Brazilian Census, at least 11.4 million people live in degraded areas and informal housing in Brazil<sup>1</sup>. This number represents 6% of the country's population. Nearly half of the informal settlements are concentrate in the State of São Paulo and Rio de Janeiro (49,8% of the total).

Concerning the profile of the inhabitants of informal settlements, the average age is 27.9 years old, with 28,3% up to 14 years old. Those number shows that a high number of people living deprived of proper housing belongs to a young portion of the population. 6,1% of people living in informal settlements are over 60 years old.

In terms of race, the majority is black, it's 68,4% of 11.4 million. And, 31,6% earns half of the national minimum wage, which currently corresponds roughly to 260 US dollars.

Among the inhabitants of favelas 8,4% are illiterate.

There are not many data available about other characteristics of people living in favelas and other degraded areas. Non-official researchers point out that there is a high number of women and single mothers supporting alone their families. Unable to afford a house or pay rent, the most vulnerable sector of the population stay on

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<sup>1</sup> See Brazilian Institute of Geography and Statistics (IBGE) at <https://censo2010.ibge.gov.br/>.

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the informal settlements to provide shelter for their families. In the last 20 years, the number of people living in inappropriate homes doubled in Brazil.

The Federal Constitution of 1988 and others specific legislation, such as the Statute of the City (Law 10.257 of July 10, 2001), gave concrete form to the principle of the social function of property, however, these advances were incapable of ensuring substantive improvements in the conditions of housing and access to qualified urban services.

**Question 2. Please provide information on access to water, sanitation, electricity and other services, including availability and costs. Also refer to any relevant qualitative studies or documentation of the lived experiences of residents.**

The legislation regulates basic sanitation in Brazil since 2007. According to the law, sanitation means many services beyond drinkable water, such as urban maintenance and recycling programs. The National System of Sanitary Information (SNIS), a governmental research center, carried out the last study about the sector. The data collected in 2015 shows that around 17% of the population live without basic sanitation and half of the Brazilians, or more than 100 million people, live in areas that are not covered by proper sewage systems, what make people use non-ecological alternatives for domestic waste disposal (cesspit and direct discharge into rivers)<sup>2</sup>.

According to the National Electricity Agency (ANEEL), Brazil still has 1 million households without electricity. Most of them are in rural areas, far from the reach of many public services. Although the government estates that less than 3% of the population is deprived of electricity, most of the services are concentrate in the urban areas, leaving around 10% of rural communities in precarious conditions.<sup>3</sup>

In urban informal settlements, it is very common the use of irregular electrical connections to avoid paying high services taxes, and also there is a lack of government's investment to provide electricity to every citizen. Those connections are often very precarious and hazardous, putting households in constant risk of fire.

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<sup>2</sup> For more information, see National System of Sanitary Information website <http://www.snis.gov.br/>.

<sup>3</sup> For more information access [http://www.brasil.gov.br/infraestrutura/2011/11/energia-eletrica-  
chega-a-97-8-dos-domicilios-brasileiros-mostra-censo-demografico](http://www.brasil.gov.br/infraestrutura/2011/11/energia-eletrica- chega-a-97-8-dos-domicilios-brasileiros-mostra-censo-demografico).

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The Constitution and Federal Decrees regulate other basic public services, especially health and education. However, it is the State's responsibility to apply the actions to guarantee the access to those services. This type of regulation helps the development of policies in tune to the local realities, but on the other hand, can create inequalities hard to be overcome.

**Question 3. Please provide information and data on environmental, health or security concerns and experiences, including violence against women, affecting residents in informal settlements. Please include disaggregated health statistics, including life expectancy, mortality and any data on injuries or fatalities of residents of informal settlements as compared to the general population.**

No data could be found regarding this question.

**Question 4. What goals and timelines have been adopted to ensure that all informal settlements will be upgraded to meet the standard of adequate housing by 2030? Please provide information on plans, upgrading/resettlement policies and whether these plans include human rights standards. Please also explain how responsibilities have been allocated to different levels of government.**

According to the "Fundação João Pinheiro – FJP", in 2015 Brazil had about 6.9 million available properties (more than 80% are located in urbanized areas) and 1 million in construction or renovation<sup>4</sup>. On the other hand, according to the FJP the housing *deficit* (people without housing) was 6.3 million. The data was based on the natives' household survey of the IBGE, the institution responsible for the official calculation of the housing *deficit* in Brazil.

In relation to the precariousness of settlements and housing, problems in the infrastructure and the lack of adequate public services affect 7.22 million domiciles. According to the IBGE, the "Summary of Indicators" of 2016<sup>5</sup> shows that about 24.7 million people live in households with some structural problem or inadequacy that affect the quality of life.

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<sup>4</sup> *Housing Deficit in Brazil 2015* (available in <http://www.fjp.mg.gov.br/index.php/docman/direi-2018/estatistica-e-informacoes/797-6-serie-estatistica-e-informacoes-deficit-habitacional-no-brasil-2015/file>)

<sup>5</sup> *Synthesis of Social Indicators – SIS 2016* (available in <https://www.ibge.gov.br/estatisticas-novoportal/sociais/trabalho/9221-sintese-de-indicadores-sociais.html?edicao=9222&t=sobre>)

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Although the numbers are quite alarming, there is no integrated policy between the municipal, state and federal spheres to address the problem. In the city of São Paulo, according to the Municipal Housing Plan<sup>6</sup>, it is estimated that 358 thousand new homes are needed to end the housing deficit. Also, according to this document, in the municipality there are still 830 thousand properties in precarious settlements that need infrastructure improvement or land regularization. On the other hand, at the current rate of public investment for the construction of housing, the São Paulo municipality need almost 100 years to fill the housing deficit. That is, under any parameter observed, the policies undertaken by Brazil, and in the specific cases of the municipality of São Paulo the solutions are far from meeting adequate housing goals until 2030.

**Question 5. What are the primary reasons for people living in informal settlements? (eg. rapid urbanization, gap between housing costs and income; loss of ancestral land; internal displacement; immigration; lack of titled land; etc). Please refer to relevant research or reports.**

Among the main reasons that explains the large number of people living in informal settlements in Brazil, there is the low income and the processes of gentrification of urban centres.

While part of the population earns less than minimum wage per month, the social housing programs have been halted and the rents have increased more than inflation. This combination allied to an instable economy and less opportunities to formal employment forced low income families to occupy empty areas and buildings. In this way, they endure many hardships, as lack of drinkable water, electricity and sanitation. Those families find themselves without others choices<sup>7</sup>.

Deteriorated urban neighborhoods and other areas that usually housed low-income families also has been object of private renovation, raisins property values and forcing vulnerable people to the outskirts of the cities. The gentrifications

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<sup>6</sup> See the Câmara Municipal de São Paulo website at <http://documentacao.camara.sp.gov.br/jah/fulltext/projeto/PL0619-2016.pdf>

<sup>7</sup> See *Social inequalities in adult mortality in the City of S. Paulo* (available in [https://www.scielosp.org/scielo.php?pid=S1415-790X1999000100004&script=sci\\_abstract&tlng=pt](https://www.scielosp.org/scielo.php?pid=S1415-790X1999000100004&script=sci_abstract&tlng=pt)) and *Social inequalities: the struggle for the space* (available in <http://revista.fct.unesp.br/index.php/revistacidades/article/view/571>)

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process is present in most Brazilian's urban areas, especially in São Paulo, Rio de Janeiro e Salvador<sup>8</sup>.

**Question 6. What laws are in place to protect and ensure the rights of residents of informal settlements, before, during and after any upgrading, if it takes place? Have these laws been effective? Please provide references to any important court decisions.**

In 2009, it was implemented the “Minha Casa, Minha Vida Program” (My house, My Life) by the law 11.977, which creates parameters to implement mechanisms for the production and acquisition of new housing units or re-qualification of urban properties and production or renovation of rural dwellings and regularization of informal settlements in urban area. In 2017, some articles were revoked by the law 13.465, which post parameters to rural and urban land regularization of informal settlements.

The Law 13.465 / 2017 has priority for the permanence of the residents in the same place after the implementation of improvements. Article 39, paragraph 2 establishes that in urban land regularization of social interest that involves areas of risk that do not involve elimination, correction or administration of the risk, the Municipalities must proceed to the relocation of the occupants of the informal urban settlement that have to be regularized.

There are land regularization processes in progress in the Municipalities, but only a small portion has already been completed, which shows that the law does not have much effectiveness in practice.

The Law n. 11.888/2008 assures that low-income families has the right to free and public technical assistance for the design and construction of housing of social interest. However, the law is not regulated and, therefore, has no effective application.

There are few cases where there is the removal of the inhabitants to carry out reforms and, after, the return of the populations of informal settlements. There was a case in São Paulo where the municipality removed the families from a building known as “Casarão da Rua do Carmo” for upgrading, with the promise that they would return to the property after the completion of the works. During the period of works they would receive rent assistance to be able to pay for the

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<sup>8</sup> See João Sette Whitaker Ferreira's article *São Paulo and the myth of the global city: ideology and Market in the city's productio*. Available in [http://www.labhab.fau.usp.br/biblioteca/textos/ferreira\\_mitocidadeglobal\\_mercocidades.pdf](http://www.labhab.fau.usp.br/biblioteca/textos/ferreira_mitocidadeglobal_mercocidades.pdf).

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dwelling in another place until the return to the building. The families were removed in the 1990s and only in 2018 they returned to the property. However, it is important to emphasize that in 2015, the Municipality interrupted the payment of the rental-aid, which led to the filing of the action N.º. 1002046-24.2016.8.26.0053<sup>9</sup> by the Public Defender of São Paulo. After appealing, the Court of Justice of the State of São Paulo decided to continue the payment of the aid until the return of the residents to the building.

**Question 7. Please provide, if applicable, information on international development assistance received for projects and programmes related to informal settlements. To what extent are these projects implemented within a human rights framework and linked to the achievement of the 2030 Agenda targets?**

We can mention some isolated experiences, such as the intervention of the Inter-American Development Bank, through the MICI (Independent Consultation and Investigation Mechanism) that had decisive influence to finance a project to resettle families compulsorily removed from Favela Vila Nova Tatetuba in São José dos Campos, São Paulo. The assistance provided was a result of a petition made by the residents, endorsed by the Public Defender, which presented human rights violations in projects financed by the IDB (Programa Habitar Brasil), evidenced by non-compliance safeguards operational policies of the financial institution, especially those related to unintentional resettlement, gender-based policy and environmental preservation.

Recently, through the Urban Structural Program, the land regularization component was included in the bank's loan package, but resources have been sent to large road projects, and only a small portion has been allocated to the effective settlement of informal settlements.

**Question 8. Please provide information about successful upgrading or resettlement projects or experiences that could provide good practices elsewhere. Please also share lessons learned from unsuccessful projects or approaches.**

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<sup>9</sup>Available in:

[https://esaj.tjsp.jus.br/cpopg/show.do?processo.codigo=1H0008RXE0000&processo.foro=53&uui\\_dCaptcha=sajcaptcha\\_74d472aeaa51443785b3ff8786071273](https://esaj.tjsp.jus.br/cpopg/show.do?processo.codigo=1H0008RXE0000&processo.foro=53&uui_dCaptcha=sajcaptcha_74d472aeaa51443785b3ff8786071273)



Among the most successful resettlement projects in Brazil, appears those carried out by social movements, such as The Homeless Workers Movement (MTST)<sup>10</sup>. One of their project, in the city of Taboão da Serra, in the Greater Region of São Paulo, benefited 394 families. Using financial resources made available through the Federal Government's policy "Minha Casa, Minha Vida", *My Home, My Life*, the housing project was designed to attend their needs and was supervised by the movements' members. Each family pays monthly less than 10% of the national minimum wage (around 22 US dollars). The Federal Government has unfortunately, decreased the funding for this type of social housing policy in the last years.

On the other hand, both Federal and State governments currently are prioritizing investments in housing projects aimed to the middle classes, or families with income above 5 minimum wages per month. Far from helping the most vulnerable sectors, these policy benefits individuals from the middle classes, undermining completely the role and responsibilities of the State.

In the city of São Paulo, the Municipal Housing Plan was launched in 2016, aiming at framing the municipal housing policy to the needs and structured actions foreseen in the Strategic Master Plan (Municipal Law 16.050, dated July 31, 2014).

The Municipal Housing Plan (Law Project - PL 619/2016)<sup>11</sup> contemplates a set of structured actions to confront housing precariousness in the city with a main focus on precarious and irregular settlements. However, due to the disputes of political groups, because of the financial interests of the economic groups that exploit the real estate market, which is quite speculative and exclusive, the proposals elaborated in the plan are far from implementation.

São Paulo, Brazil, May 15, 2018

**Luiza Lins Veloso**  
Public Defender

**Marina Costa Craveiro Peixoto**  
Public Defender

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<sup>10</sup> See the MSTs website at <http://www.mtst.org/>.

<sup>11</sup> See the Câmara Municipal de São Paulo website at <http://documentacao.camara.sp.gov.br/iah/fulltext/projeto/PL0619-2016.pdf>



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