

**Mandate of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context**

## **Questionnaire**

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

The Special Rapporteur on the right to adequate housing has decided to devote her forthcoming report to the General Assembly to the issue of informal settlements and human rights.

#### **A. Background**

It is estimated that one quarter of the world's urban population lives in informal settlements.<sup>1</sup> Informal settlements exist in nearly all regions and countries, including in highly developed countries.

Informal settlements can be defined as residential areas where inhabitants have no formal ownership or lease agreement vis-à-vis the land and/or dwellings they inhabit. Modalities include homeless encampments, squatting in abandoned buildings, living in informal rental housing or in long established communities without formal title. Shelter is frequently constructed by hand out of any available materials, but may take many other forms, such as cars, boats, containers or other shelter. Some informal settlements have been built over many years in brick and mortar, but the actual neighbourhood is not fully legalised. Informal communities usually lack basic services such as water and sanitation, and infrastructure and the housing may not comply with current planning and building regulations.

Informal settlements often expose individuals to the most extreme and degrading living conditions and are often located in the most hazardous areas. At the same time, they often represent significant accomplishments in community empowerment and self-governance, fostering vibrant centres of culture, community and economies. This duality creates a space where survival and resilience dominate the daily experience.

Residents of informal settlements often belong to marginalized groups, having faced exclusion and discrimination compounded by their housing status. The failure of States to address living conditions in informal settlements creates multiple threats to life, dignity and security. Residents of informal settlements often live under a persistent threat of forced eviction.

States have committed under Goal 11 of Agenda 2030 for Sustainable Development to upgrade all informal settlements and ensure adequate housing for all by 2030. A human rights framework will be essential to meeting this commitment so as to both address the structural factors that force people into informality while recognizing and building on the

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<sup>1</sup> See UN Habitat III Issue Papers – 22 - Informal Settlements, New York, 31 May 2015, p. 3

accomplishments and capacities of informal settlement communities. A human rights framework prevents forced evictions and ensures that where relocation to alternative land and housing is unavoidable or is the preferred option of residents, it is planned and implemented with genuine consultation and participation, ensuring the dignity and rights of those affected.

The report on the right to adequate housing and informal settlements will be the first of its kind by a Special Rapporteur of the United Nations. In her report the Special Rapporteur on the right to adequate housing will provide clear guidelines to States and other actors on the challenges that lead to informality, including migration, colonization, urbanization, financialization and social exclusion. It will explain how a human rights-based approach is fundamental to meeting the commitments made in the 2030 Agenda for Sustainable Development and the New Urban Agenda.

In her report, the Special Rapporteur will highlight creative uses of legal mechanisms, new approaches to ownership, tenure and planning as well as innovative legislative and programmatic initiatives. It will identify good practices in diverse settings.

## **B. Questions**

For the elaboration of her report the Special Rapporteur would be grateful to receive responses to the following questions.

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.

In 2007, almost 1.3 million families in Brazil lived in a housing considered precarious, an amount that fell to 942,6 thousand in 2015. Only in São Paulo, according to data from the municipality's Housing Department, almost 1.2 million (1,118 million) of families live in precarious situation.

Disaggregated:

Gender and race: While 2.6% of white-headed households are located in subnormal settlements, more than 5%, or twice as much, are headed by blacks. With regard to gender inequalities, the percentages are 3.5% for male-headed households and 4.5% for female-headed households. What can be seen here is that households headed by white men or women are below the national average of 3.8% in 2003. On the other hand, those headed by black women or men are well above this value, reaching 6.4% in the case of the headship of black women, which must be related to the poverty condition of these groups in relation to that of whites.<sup>2</sup>

Also, if you take the examples of 3 metropolis the discrimination can be further confirmed. In São Paulo, the percentage of black people who live in subnormal settlements are 60,66%, while the white populations are 38,75% (IBGE, 2010). In the state of Rio de Janeiro, the indexes are also discrepant when analyzing the black ethnic racial contingent. There are 65,85% of black people living in favelas, slums and areas

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<sup>2</sup> <http://www.ipea.gov.br/retrato/pdf/primeiraedicao.pdf>

considered precarious, as opposed to 33,10% of white people living in the same conditions (IBGE, 2010). In Salvador, a black city per excellence, this percentage is alarming. There are 87,42% of blacks without full citizenship as to the right to live with dignity, whereas only 10,95% of the population considered ethnically white lives in similar conditions (IBGE, 2010).

Income: In terms of income, the housing deficit is higher among families with income between zero and three minimum wages – about 93% of the 6.9 million homeless families have incomes of up to R\$2.800,00.<sup>3</sup>

By Region: The Northern Region recorded the largest housing deficit in the country (12,6%, representing 645,5 thousand households), driven by the 15.3% deficit in the metropolitan area of Belém. The state with largest relative deficit (20%) is Maranhão, where about 241.2 thousand houses were considered precarious (rustic or improvised).

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.

#### Access to adequate sewage

In the city of Rio de Janeiro, 52,680 (12%) of the households didn't have adequate sanitary sewage in 2010 and 140,047 (33%) didn't count with regular electricity, that is, supplied by the distributing company and with exclusive use measurements, in a universe of 426,479 households.<sup>4</sup>

Data from 2013 shows that the Southeastern and Southern regions appear again with indicators above the national average, with 94,89% and 85,56% of the urban population with access to adequate sanitary sewage. On the other hand, the Central-West, North and Northeast remain below the national average, with 63,36%, 62,46% and 69,44% of their urban population with access to adequate sanitary sewage.<sup>5</sup>

#### Electricity

Only slightly more than 66% of the households in the favelas have a meter for exclusive use, a number that exceeds 85% in the municipality as a whole.<sup>6</sup> The “Minha Casa Minha Vida” programs offers low quality construction and environmental properties.

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.

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<sup>3</sup> <http://www.bbc.com/portuguese/brasil-44028774>

<sup>4</sup> <https://oglobo.globo.com/rio/ibge-revela-que-12-das-casas-em-favelas-nao-tem-esgoto-3513478>

<sup>5</sup> <http://www.caubr.gov.br/vi-habitacao-saneamento-e-servicos-basicos-questoes-e-desafios-para-uma-nova-agenda-urbana/>

<sup>6</sup> [https://brasil.elpais.com/brasil/2017/01/18/politica/1484769932\\_342623.html](https://brasil.elpais.com/brasil/2017/01/18/politica/1484769932_342623.html)

The absence of public policies makes residents of informal settlements more exposed to violence compared to the general population.<sup>7</sup> Interviews show that the police shoots 10 times more in slums than elsewhere.<sup>8</sup>

Violence against women: Black women living in informal settlements are particularly vulnerable, also due to the absence of the state in the poorest neighborhoods. In the neighborhoods inhabited by the wealthiest white population there is a double security: the public, offered by the state, and private. In poorer, mostly black neighborhoods, one must be content with public safety, which often acts in the opposite direction to protect, and is responsible for the deaths of inhabitants.<sup>9</sup> Besides, young women living in informal settlements experience the public space differently. According to a research from 2015, 90% of women aged between 14 and 24 living in slums do not access the public space because they fear being subject to violence.<sup>10</sup> The murder of human rights activist and councillor Marielle Franco shows that occupying positions of power does not guarantee safety for black women from the favelas.<sup>11</sup>

Child mortality: In downtown São Paulo, where many informal settlements and buildings are occupied, child mortality is 21 times higher than in other neighborhoods.<sup>12</sup>

Life expectancy: Life expectancy is 25 years greater in an elite neighborhood from São Paulo than in the periphery.<sup>13</sup> According to data from 2017, residents of informal settlements such as Jardim Ângela die at age 55 on average whereas residents from Jardim Paulista live until 79 years old.<sup>14</sup>

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.

Between 2013 and 2015 there was a reduction of almost 400 units in the production of new houses after more than five years of progress. In 2007, almost 1.3 million families in Brazil lived in a housing considered precarious, an amount that fell to 942,6 thousand in 2015.

<sup>7</sup><http://justificando.cartacapital.com.br/2014/04/14/duas-faces-da-seguranca-publica-brasil-o-asfalto-e-favela-2/>

<sup>8</sup> <https://www.cartacapital.com.br/educacao/morte-e-vida-nas-favelas>

<sup>9</sup> [https://brasil.elpais.com/brasil/2015/11/06/politica/1446816654\\_549295.html](https://brasil.elpais.com/brasil/2015/11/06/politica/1446816654_549295.html)

<sup>10</sup><https://oglobo.globo.com/sociedade/mulheres-nas-periferias-do-pais-deixam-de-ir-espacos-publicos-por-medo-de-violencia-16216026>

<sup>11</sup><https://www.theguardian.com/world/2018/apr/13/marielle-franco-fiancee-rio-brazil-monica-benicio>

<sup>12</sup><https://g1.globo.com/sp/sao-paulo/noticia/mortalidade-de-criancas-de-ate-1-ano-na-se-e-quase-21-vezes-maior-do-que-em-perdizes-diz-estudo.ghtml>

<sup>13</sup><http://sao-paulo.estadao.com.br/noticias/geral,morador-de-pinheiros-vive-25-anos-mais-que-o-de-cidade-tiradentes,10000073357>

<sup>14</sup><http://cbn.globoradio.globo.com/sao-paulo/2017/10/25/MORADORES-DA-PERIFERIA-VIVEM-21-ANOS-A-MENOS-QUE-PAULISTANOS-DE-BAIRROS-RICOS.htm>

In December 2016 Brazil approved an austerity package freezing social expenditure<sup>15</sup>, and ever since we have already witnessed more unemployment, homelessness, and less public policies to tackle the Federal State's responsibility in providing adequate housing.<sup>16</sup> The tendency is that Brazil will not be able to meet the standard of adequate housing by 2030.

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.

The most recent National Household Sample Survey (PNAD), conducted in 2015, indicates an annual growth of about 30% of households affected by high-income commitment with rent payment. In total 3.8 million homes have this problem, and it aggravates the housing deficit.

“In 2007, the excessive burden of rent represented 32% of the country's housing deficit, rising to 48% in 2014. In metropolitan areas, where we know that rent increases the family budget, the weight of the component is well over 50%.”<sup>17</sup>

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.

Federal Constitution: Right to housing (Article 6); Social function of property (Article 186)

Estatuto da Cidade (City Statute): aims to create a new legal-urban order to provide land access and equity in large urban cities

Besides that we do not have specific legislation concerning the rights of residents of informal settlements before, during and after any upgrading.

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?

Project-induced displacement and resettlement is an issue that become increasingly present after the 2014 World Cup and Rio Olympics.<sup>18</sup>

In regards to urban land, investments from the Inter-American Development Bank in municipalities like São José dos Campos have been threatening the right to housing of residents that live for more than 50 years in an informal settlement called Banhado Slum.<sup>19</sup> Revitalization strategies in place in the historic center of Salvador – Bahia have removed many of its residents and continues to threaten others such as those who live for

<sup>15</sup> <https://www.theguardian.com/world/2016/dec/13/brazil-approves-social-spending-freeze-austerity-package>

<sup>16</sup> <http://www.global.org.br/blog/social-setbacks-due-to-austerity-policies/>

<sup>17</sup> <http://www.valor.com.br/brasil/4882412/deficit-habitacional-aumenta-com-recessao>

<sup>18</sup> <http://rioonwatch.org/wp-content/uploads/2013/05/2012-World-Cup-Olympics-Dossier-English.pdf>

<sup>19</sup> [http://www.ovale.com.br/\\_conteudo/2017/07/nossa\\_regiao/10664-bid-aponta-erros-em-projeto-de-financiamento-da-via-banhado-em-sao-jose.html](http://www.ovale.com.br/_conteudo/2017/07/nossa_regiao/10664-bid-aponta-erros-em-projeto-de-financiamento-da-via-banhado-em-sao-jose.html)

generations in Gamboa de Baixo.<sup>20</sup> Normally, this type of project does not provide any human rights framework or alternative to the families.

In the Amazon rainforest, mega-dams such as the Belo Monte hydroelectric complex are expelling the traditional people from their territories and forcing them into the urban area. As a consequence, Altamira, the town that inflated as the dam's reservoir began filling up has been ranked as Brazil's most violent large city.<sup>21</sup> Another example is the "Tapajós Hydroelectric Complex" a project providing for the building of seven power stations in the western region of the state of Pará, which has direct impact on traditional communities, including *quilombolas*, riverside dwellers, non-industrial fishing communities and indigenous communities.<sup>22</sup>

That is also true in regards to quilombo remainders who faced forced evictions in the state of Pernambuco, due to another megaproject, The Industrial and Harbor Complex of Suape (CIPS).<sup>23</sup> The Brazilian state, private actors and public-private consortiums exhibit a constant failure to comply with International Labour Organization (ILO) Convention 169 which determines that prior consultation is obligatory with regard to any measure capable of affecting indigenous peoples and other traditional populations.

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.

Recently, an urban occupation called "Povo sem Medo" has negotiated with the state government three areas for the auto-construction of new units.<sup>24</sup> Unfortunately, the private owner of the former area was not subject to any penalty, even though the social function of property was not being fulfilled. We understand this approach is insufficient, and that resettlement projects should be the last option, not the first alternative.

### C. Timelines and submissions

The report will be presented to the 73rd session of the General Assembly in October 2018. The Special Rapporteur on the right to adequate housing welcomes responses and submissions of relevant reports or studies by **15 May 2018**. Submissions can be sent to [rhousing@ohchr.org](mailto:rhousing@ohchr.org) (cc: [registry@ohchr.org](mailto:registry@ohchr.org)).

In order to facilitate processing of the information, submissions in English, French or Spanish are appreciated. If not requested otherwise, responses and submissions received will be published on the website of the Special Rapporteur.

<sup>20</sup> <http://www.ebc.com.br/cultura/2014/12/artesaos-de-area-historica-de-salvador-fazem-ato-contra-remocao>

<sup>21</sup> <https://www.theguardian.com/cities/2018/feb/06/urban-poor-tragedy-altamira-belo-monte-brazil>

<sup>22</sup> <http://terradireitos.org.br/acoes/megaproject-impacts/15>

<sup>23</sup> <https://www.business-humanrights.org/en/brazil-civil-society-accuses-complexo-industrial-portu%C3%A1rio-de-suape-of-violence-forced-evictions-water-contamination-threats-to-lawyer-company-responds>

<sup>24</sup> <http://www.redebrasilatual.com.br/cidadania/2018/03/ocupacao-povo-sem-medo-de-sao-bernardo-conquista-terrenos-para-moradia>

Please do not hesitate to contact Gunnar Theissen ([gtheissen@ohchr.org](mailto:gtheissen@ohchr.org)) Tel: +41-22-917 9321 at the Office of the United Nations High Commissioner for Human Rights, should you have any further questions.