CatComm
CATALYTIC COMMUNITIES



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1. **Please describe the different land tenure regimes in your country, region or city and their impact on the right to adequate housing.**

Brazil features a multitude of land tenure regimes that coexist, sometimes peacefully and at other times in conflict. As a country with vast territory and diverse racial and ethnic groups shaped by a colonial past, multiple forms have been developed to regulate land ownership and governance. In summary, the main land tenure regimes in Brazil include:

- **Indigenous lands**: Protected by the Federal Constitution, indigenous lands are reserved for the permanent use of indigenous communities that have historically inhabited them. These lands are inalienable and non-transferable, titled to the Federal Government, which is responsible for demarcation and protection. This constitutes a collective right of indigenous peoples to land possession.

- **Quilombola territories**: Communities of *quilombola* descendants also hold collective rights to the lands they have traditionally occupied, with constitutional protection. Under this regime, full ownership of the land (private property) is collectively transferred to the occupants via a representative association. The land cannot be sold and may only be used by this racial group.

- **Traditional communities**: In addition to indigenous and *quilombola* peoples, Brazil is home to a range of traditional communities that maintain alternative relationships with land. Though not constitutionally enshrined, these tenure regimes are protected by specific laws and often involve collective governance and non-commercial land use arrangements.

- **Use rights on public land**: Brazil has extensive public land holdings, which are sometimes regulated through use rights granted to occupants. These include instruments such as the Concession of Real Right of Use (CDRU) and Special Concession for Housing Purposes (CUEM), which maintain public ownership but guarantee use rights for housing, either for a determined or undetermined period, with limitations on land use.

- **Individual private property**: Property rights are legally regarded as the highest form of entitlement to a good and enjoy strong legal protection. Private ownership—along with related rights such as leasing, usufruct, and land tenancy—remains the predominant form of access to land and housing. Many housing policies have focused on expanding access to private property; however, ownership remains largely restricted to a small segment of the population with sufficient purchasing power.

- **Informal settlements and irregular possession**: A significant portion of Brazil's vulnerable population resides in informal settlements. Favelas and urban communities are widespread in large cities and often constitute the only accessible housing option. Land rights are generally exercised through possession, with occupants facing substantial insecurity. These lands may be publicly or privately owned.

Existing land tenure regimes are closely linked to the right to adequate housing, particularly regarding tenure security. The dominant emphasis on private property often undermines the housing rights of those under alternative tenure arrangements, especially possessors. To advance the realization of this right, it is essential to recognize and protect the diverse tenure systems that underpin housing access in Brazil.

2. **How is land ownership and land tenure distributed between public and private actors, between genders, different social, ethnic or racial groups and what impact does the distribution of land ownership and land use rights have on the right to adequate housing?**

Brazil's housing deficit stands at approximately six million units. This deficit is unevenly distributed among social groups, with 75% concentrated among households earning up to two minimum wages. Women account for 62% of the housing deficit, and non-white populations are similarly overrepresented.

Land ownership in Brazil is largely concentrated in the hands of a small, predominantly white, male elite. This pattern stems from Brazil's colonial history, where landholding was dominated by large properties (latifúndios) and sustained by enslaved labor. The post-abolition period lacked effective land redistribution programs, perpetuating inequality in land access.

While underrepresented in land ownership, Black Brazilians are the majority in informal settlements. Though comprising 55% of the population, they account for 73% of favela residents. Consequently, land tenure insecurity disproportionately affects Black people and women, highlighting structural inequalities in access to adequate housing.

3. **What challenges does your country, region, city, or your community face in accessing or acquiring land, land use or access rights for the purpose of the realization of the right to adequate housing?**

One of the primary challenges is the dominance of private property as the principal pathway to housing access via the market. Housing in Brazil is often unaffordable for a large segment of the population. Currently, the largest component of the housing deficit is excessive renting costs, accounting for 52% of the total. These are families spending more than 30% of their income on rent, which hampers their ability to realize other fundamental rights. This situation reflects a concentration of land ownership and housing assets among rent-seeking property owners, which undermines the view of housing as a right.

Another significant challenge lies in the lack of coordinated land regularization policies. Many residents of informal settlements are entitled to possessory rights under the Federal Constitution and existing legislation. The path to formalizing these rights lies in land regularization, a public policy responsibility of local governments. However, the reach of this policy remains far below what is needed, resulting in widespread tenure insecurity.

More recently, Brazil has witnessed a shift toward neoliberal legal frameworks that prioritize individual titling over other tenure forms. While these reforms aim to streamline processes, they pose new risks to informal settlements, including increased gentrification and speculative pressure on occupied lands.

4. **To what extent are communal/collective land ownership, use or access rights recognized in law and practice in your country? What impact do such tenure arrangements have on the right to adequate housing?**

Brazil recognizes multiple forms of communal and collective tenure arrangements, including indigenous territories, *quilombola* lands, traditional community areas, and collective use rights on public land. Nevertheless, these regimes face substantial challenges in terms of legal recognition and effectiveness in ensuring the right to housing.

One major issue is the insufficient legal framework. While some legislation supports collective land rights, Brazil's legal culture remains deeply rooted in individual ownership. Consequently, collective land claims often receive limited legal protection and are not fully upheld by the judiciary. This hierarchy of property rights tends to prioritize individual ownership above other tenure forms.

Additionally, public authorities have often failed to act on their responsibilities to demarcate and title collective lands. The insufficient demarcation of indigenous territories, the extremely low titling rate of *quilombola* communities, and the lack of land regularization policies tailored to collective regimes all hinder these communities' access to adequate housing.

A recent development, initiated in 2018, is the promotion of the Favela Community Land Trust, inspired by the U.S.-based Community Land Trust (CLT) model and adapted to Brazilian favelas. It establishes a collective governance arrangement with strong resident participation. Although no formal implementation has occurred yet, the Favela-CLT has been included in municipal legislation and a federal bill is under consideration. If adopted, the Favela-CLT could provide permanently affordable housing, strengthen tenure security in informal settlements, and support participatory community development.

5. **Please describe the legal regime governing the expropriation of land in your country for public purposes. Please explain to what extent the legal regimes governing expropriation or the withdrawal of land use or access rights are compliant with international human rights standards and the protection against forced evictions, arbitrary resettlement and forced displacement in law and practice.**

Brazilian law provides an advanced legal framework for expropriation for public purposes. It grants the state the power to expropriate private property upon fair compensation and outlines the specific circumstances under which expropriation is justified as serving the public interest.

However, the implementation of this framework faces criticism. The broad interpretation of "public utility" grants the state excessive discretion, sometimes leading to expropriations that serve limited or private interests—such as urban developments that result in gentrification or real estate speculation—blurring the lines between public and private purposes.

Moreover, expropriation practices focus excessively on formal property owners, often neglecting possessory rights. In many cases, land is occupied by individuals without formal title. When such areas are expropriated, only the formal owner is notified and compensated, disregarding the rights of occupants. This practice violates the right to adequate housing and can lead to forced evictions without proper compensation or resettlement.

6. **Please share any examples of land use, land governance or land management policies that have been successfully employed in your country, region or city to realize the right to adequate housing for all without discrimination.**

This report highlights the emerging experience of the Favela Community Land Trust (Favela-CLT) in Brazil. It is a collective land governance model that separates land ownership (collective) from building ownership (individual). The Community Land Trust is already in use in dozens of countries and is gaining traction in informal settlements across the Global South, including Puerto Rico, Kenya, and with growing interest in Brazil, Bolivia, Bangladesh, India, and South Africa.

Although no CLTs have been formally implemented in Brazil to date, several communities in Rio de Janeiro are working toward pilot projects. Many informal settlements in the country already practice elements of collective governance and solidarity, laying the groundwork for CLTs.

The CLT has the potential to advance the right to adequate housing in five key ways:

1. **Provides robust tenure security for vulnerable populations**: CLTs offer maximum protection against forced removals by either the state or the market, ensuring effective security of tenure.

2. **Fosters community development through collective management**: CLTs empower residents to shape their development independently and equitably, ensuring benefits remain within the community rather than being captured by speculators.

3. **Ensures resident control over land use**: CLT governance structures place decision-making in the hands of residents, including property holders and community members, who collectively guide the use and development of the territory.

4. **Maintains long-term housing affordability**: By removing land from the speculative market and applying price-control mechanisms, CLTs guarantee permanent affordability for low-income families, contributing to the full realization of the right to housing as mandated by Brazil's Constitution.

5. **Preserves public investment for the intended beneficiaries**: CLTs ensure that public resources invested in communities remain with the residents over time, avoiding displacement and the repeated need for reinvestment in newly settled areas on the urban periphery.