Brazillian Housing Rights: In the Context of Mega-Events

I. Executive Summary

Mega-Events are large scale sports productions that usually involve a country playing host to international competitors. These events require huge development schemes. These projects include housing and infrastructure redevelopment. While building a better city / state / region, the host country is given the opportunity to unify the country towards a common development goal. This unity percolates throughout society and allows the host country to create broad forward-thinking initiatives. However, there are those who are not included in these initiatives. These communities are normally the ones most vulnerable to the development scheme.

Historically, the most vulnerable people affected by these massive development projects are those who already experience institutional discrimination. A UN Special Report in 2009, analyzing the impact of mega-events on housing rights, found that these communities commonly include minorities, migrants, people with disabilities, low-income families, aboriginals, and the homeless.¹ The cycle of displacement is often repeated; Atlanta displaced mainly African-Americans for the 1996 Olympics and Beijing mainly displaced migrant workers.² The problems already ingrained in society are exacerbated by the increasing tensions associated with major economic, social, and cultural shifts. Communities often use these projects to coalesce into activists, as a tool to increase their voice in a system that has systematically silenced it. In Brazil, a majority of these communities fall under the label of Quilombola; generally associated with the descendants of slaves and ethnic minorities. Brazil, then, is in a unique position to understand the historical context of the development projects and navigate the housing rights effectively. The pre-

² Ibid
requisite to success redevelopment is then the already established institutional checks that protect those vulnerable communities. Using this framework and the recommendations by UN monitors, FIFA monitors, and think tanks, Brazil has the tools to protect the housing rights of such communities.

II. Question Presented:

In light of the impending 2014 World Cup & 2016 Summer Olympics in Rio de Janeiro, what problems faced by past Olympic host cities would be most informative in adapting mega-events to the economic, social, and cultural norms of Brazil, in order to protect the land and housing rights of the urban indigent communities?

III. Introduction

Background on Quilombola Communities:

Quilombola communities provide a solid framework for viewing local traditions and its interactions with local and federal government. These communities are mostly comprised of descendants of former slaves. Mostly from Africa, slaves were brought over to work the sugar fields and budding agricultural industries. These, mostly escaped slave communities also include Brazilian Aboriginals and religious minorities. Originally constructed in the late 1800s, these communities acted as refuge and hide-outs for newly escaped slaves. The historical pressures of the Portuguese’s settlements attempt to maintain slavery usually led to the suppression of these Quilombola communities. However, the communities continued to exist less as an independent political sphere and more as a cultural community. These historically discriminated communities still faced abuse after the total liberation in 1884. The 1988 Constitution provides them with basic land rights. This issue will be explored through its relevant parts; legal framework of those protections, in-country track record at living up to those protections, and recommendations on how to improve the protection methods. However, what is critical from a legal perspective is that the Brazilian Constitution provides Quilombola communities with a right to claim ownership over their traditional land, despite the cultural norm of not having possession of land titles.
This conflict of modern framework and historical customs leads to the many of the problems explored in this paper.

**Brazil’s Pre-Selection Record**

The Center for Housing Rights and Evictions provides numerous examples of Brazil’s inadequate attempt at protecting the urban poor’s housing rights. Their Global Survey on Forced Evictions explains how since the 1988 Constitution’s inclusion of the housing right protections, Brazil has systematically failed. Between 1989 and 1998, thousands of people were forcibly removed from their homes to make way for re-development projects.\(^3\) Construction companies worked closely with the city officials to usurp the state in order to secure development rights. For example, residents of Barra do Tijuca were removed from their property after the construction company illegally acquired title over the land. The Supreme Court upheld the government’s action and “ruled that the original settlements were illegal”.\(^4\) Examples of such housing right infringements include:

At Fazenda Buriti in Montenegro district, Rondonia State, six settlers were shot by members of the police battalion responsible for the Fazenda Santa Eline eviction. The land conflict involves 250 settlers on a 2,000-hectare site.

In May 1996 the Juta Farm, in the east region of Sao Paulo city, was occupied by 440 people. Just one day after the occupation, these people were forcibly evicted by State military police. This eviction resulted in three deaths. While the government stated that it would provide housing for those evicted, no housing project for these people has been initiated.

On 25 October 1996 the Brazilian Congress gave a green light to the operation of the Serra da Mesa Dam. Environmentalists and human rights advocates have challenged the operation of the dam as it will flood 10% of the reserve of the Ava-Canoeiro, an indigenous group, which under the Brazilian

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\(^3\) Ibid.
\(^4\) Ibid.
constitution should have been consulted before the dam was built. Apparently because only a few “nomadic” bands of the Ava-Canoeiro live in the area flooded by the reservoir, the constitutional requirements were waived. The electrical utility has offered to compensate the 4,300 indigenous peoples who are being forced to relocate by providing them with $100 USD for every $1 million USD the company earns as a result of the project. This compensation has been deemed wholly inadequate by those affected.

The Inter-American Commission on Human Rights, a division of the Organization of American States, also analyzed the explosive power of the National Institute of Colonization and Agrarian Reform Act (INCRA). The Institute, founded in 1995 with a budget of $1.25 billion, had a goal of settling 40,000 families. The goal was to provide an efficient process whereby people could gain title to land, thus allowing people to farm previously unused areas of arable land. The Institute has faced conflict since its conception. Nearly 50,000 occupants in 1996, despite having no land title, stood claim to massive amounts of land. They refused to leave the land, claiming they had lived there long enough to have de facto land rights. These issues are not purely anecdotal. Earlier that year, “19 persons died and 40 were wounded in a confrontation resulting from a takeover of land by landless campesinos.” These “landless” individuals claimed to have land rights over the areas and protected this claim against massive police intervention. The military police shot the protestors and forensic pathologists even “indicated that ten of the dead had been executed when they had already been wounded.”

When FIFA announced in 2003 that the 2014 World Cup would be hosted in Latin America, Brazil began preparing to apply for a bid to host a major international mega-event. For the next 4 years, Brazil worked diligently to develop its infrastructure. Brazil had an uphill battle to climb in the face of its

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5 Ibid.
7 Ibid.
8 Ibid.
9 Ibid.
demographics. The Centre on Housing Rights and Evictions found daunting numbers. The numbers include “5 million families [did] not have access to land, while another 5 million rural properties [were] extremely small.”\(^{10}\) Furthermore, a mere 1 percent of rural land owners possess an extreme 45 percent of all lands.\(^{11}\) For those who don’t own their land, their position is quite precarious. Those precariously perched in urban slums, around 12.4 million people, also face a host of issues including poor sanitation, poor transportation, and poor education.\(^{12}\)

There were a few programs that support habitation financing. The Centre on Housing Rights and Evictions, however, found in 2008 that there was “no integrated and comprehensive approach at the national level to the problem of informal land and housing markets.”\(^{13}\) Massive inequalities between those who hold land and those who work the land still existed. Even those who were fortunate to have land rights often faced forced evictions at the hand of local and federal governments. In 2004-2006 alone over 70,000 people were forcibly evicted from their homes.\(^{14}\) An example of this pressure is an event that occurred in February 2005. In the Sonho Real settlement, the government attempted to force 4,000 families off the settlement. In the end “two people were shot dead, hundreds were injured, and 800 were arrested.”\(^{15}\) Those protestors, who were sticking up for their constitutionally protected housing right faced criminal prosecution. This dual prong attack of police persecution coupled with court complacency regarding civil liberties prevents local communities from making pragmatic steps towards progress. Furthermore, the police force is critical to the successful application of forced evictions. The ‘successful’ application of the force of law has provided for extraordinary statistics. Between 1985 and 2003, “1349 people were killed in rural areas” and “only seventy-five [of those] cases have gone to court.”\(^{16}\) Despite

\(^{10}\) Centre on Housing Rights and Evictions (COHRE), SUBMISSION: Brazil, Submission to UN Committee for Economic, Social, and Cultural Rights, April 2008, http://www2.ohchr.org/english/bodies/cescr/docs/info-ngos/COHRE_BRAZIL.pdf. (page 3)

\(^{11}\) Ibid.

\(^{12}\) Ibid.

\(^{13}\) Ibid.

\(^{14}\) Ibid.

\(^{15}\) Ibid.

\(^{16}\) Ibid.(page 4)
these inequalities, Brazil entered the world stage to bid for the unprecedented task of hosting both the World Cup and Olympic Games. This paper will also explore how the relationship of police brutality is extremely relevant when navigating the territory of land rights.

**Brazil Bids for World Cup: (2008)**

After Colombia, the only other host candidate, dropped out of the running in 2008, Brazil was left as the sole contender to host the 2014 FIFA world cup.\(^7\) Even though Brazil was running a single country race, FIFA still had to confirm that the country was ready, willing, and most importantly able to host the event.

Once Brazil’s bid was considered by FIFA, the organization sent in inspectors to determine the country’s viability as a host nation. FIFA found a country that had been preparing for this opportunity since 2003.\(^8\) Brazil had built an infrastructure that hosted over 130 TV stations, 1,500 radio stations, and provided internet to over 20 million people.\(^9\) That infrastructure allowed them to use 18 different cities in their bid proposal to host the 2014 World Cup. Airports had been built and maintained to a degree sufficient enough to allow for the efficient movement of millions of ticket holders. The inspectors also found that the major centers of the provided section of the country were “located within reasonable travel distance by road or rail.”\(^10\)

Even though the transportation system was deemed suitable to withstand the use of a mega-event, the hotel accommodations fell short of requirements. Those requirements, outlined in the 2014 FIFA World Cup hotel agreement, demanded 55,000 hotel rooms,\(^11\) an equivalent of 1.5 million hotel room nights for the length of the World Cup. The hotel agreement was thoroughly tested and passed though the Brazilian


\(^{9}\) Ibid. (page 31)

\(^{10}\) Ibid. (page 32)

\(^{11}\) Ibid. (page 34)
legal system, in order to guarantee that the agreement would be enforceable in the Brazilian courts.\textsuperscript{22} However, the inspectors still found that the amount of hotel rooms in the 18 cities were inadequate. The report came out stating that “at least four of the 18 prospective host cities would face great difficulties/challenges to stage FIFA World Cup matches at the standard that is required.”\textsuperscript{23} It also claimed that “there are still critical gaps, principally the very small number of rooms contracted in Sao Paulo that must be dealt with.”\textsuperscript{24} However, this gloomy outlook also came with some encouraging signs. The inspectors noted that an additional 23,000 hotel rooms had been contracted to be built, as a way to meet the requirements.\textsuperscript{25}

\textbf{Brazil Bids for Olympics: (2009)}

The bidding process to host the 2016 Summer Olympic Games opened in May 2007 and provided a deadline of January 2008. The final candidates were then selected in the summer of 2008. Those cities included Chicago, Madrid, Rio de Janeiro, and Tokyo.\textsuperscript{26} Final candidate cities were then subjected to International Olympic Committee inspections, where the prospective hosts were tested to confirm that they had the adequate infrastructure and rule of law to host the mega-event.

The Inspection Report clearly outlines how Rio, and by extension Brazil, was the place best positioned to receive the massive influx of money, people, and development that comes with hosting any mega-event. The Commission, set up to inspect each country, explains how the 2007 Pan-American games already served as a foundation for hosting a mega-event.\textsuperscript{27} The funding for the infrastructure necessary was also already allocated, with the Federal Plan for Growth Acceleration. Furthermore, Rio’s bid included youth development camps and other culturally specific activities that could be provided to

\begin{footnotes}
\item[22] Ibid. (page 34)
\item[23] Ibid. (page 35)
\item[24] Ibid. (page 36)
\item[25] Ibid. (page 36)
\end{footnotes}
local communities long past the Olympic Games of 2016.\textsuperscript{28} The Commission additionally found that the Brazilian governmental structure allowed for an efficient and transparent enough process to allow for the securing of Olympic-friendly legislation.\textsuperscript{29} With this analysis, the Committee proceeded into the voting process in late 2009. Brazil was, then, chosen to host the 2016 Olympics, becoming the first Latin American country to host.\textsuperscript{30}

IV. Requirements for Housing / Legal Protections

With the privilege of hosting international mega-events comes the obligation to abide by recognized international human rights norms. The International Covenant for Economic, Social, and Cultural Rights provides an international framework for recognizing and protecting individual and communal housing rights. This covenant obliges signatories to not participate in forced evictions, prosecute anyone who does, and provide legal protections to secure those claims.\textsuperscript{31} Should evictions become a necessary evil in the pursuit of re-development, the covenant outlines strict policy procedures:

(a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice to be given to all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, Government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of

\textsuperscript{28} Ibid.
\textsuperscript{29} Ibid. (page 46)
\textsuperscript{31} Rolnick, “Report 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.” (page 11)
legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.\textsuperscript{32}

During the initial stages especially, but throughout the process, it is essential that the local communities are consulted. As the one’s most affected by the mega-event’s expansion projects, they are best positioned to provide perspective. They should be provided with relevant information that applies directly to the areas where they live. The International Covenant on Economic, Social, and Cultural rights codified this even further with the statement that mega-event organizers should create a process that “reflect[s] extensive genuine consultation with and participation by, all of those affected.”\textsuperscript{33} In order to ensure participation by those affected communities, urban planners are to follow the below requirements:

(a) appropriate notice given to all potentially affected persons that eviction is being considered and that there will be public hearings on the proposed plans and alternatives; (b) effective dissemination by the authorities of relevant information given in advance, including land records and proposed comprehensive resettlement plans specifically addressing efforts to protect vulnerable groups; (c) a reasonable time period for public review of, comment on, and/or objection to the proposed plan; (d) opportunities and efforts to facilitate the provision of legal, technical and other advice to affected persons about their rights and options; and (e) the holding of public hearings providing affected persons and their advocates with an opportunity to challenge the eviction decision and/or to present alternative proposals and to articulate their demands and development priorities.\textsuperscript{34}

**Olympic Regulations and Standards**

The Olympic Charter demands the Games be held to a standard that upholds human dignity. It also provides for the Games to be free of discriminatory practices.\textsuperscript{35} This Charter “endorses sustainable

\textsuperscript{32} Committee on Economic, Social and Cultural Rights, general comment No. 7, op. cit., para. 15.
\textsuperscript{33} Committee on Economic, Social and Cultural Rights, general comment No. 4, op. cit., para. 12.
\textsuperscript{34} (E/CN.4/2006/41, appendix, para. 37).
\textsuperscript{35} Rolnick, “Report 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.” (page 13)
development and promotes the idea of leaving a positive legacy from the Olympic Games for the host city and host country.”

36 The Charter alone has not been enough to curb the destructive policies that some host nations encourage. Therefore, in order to refocus the games, The International Olympic Committee drafted Agenda 21. Here, the requirements are more concrete. The Agenda demands that a host nation pay attention to the development practices that affect “minorities and the most disadvantaged members of society.”

37 The International Olympic Committee also “requires that sports infrastructure be harmoniously integrated into the local context, and that new construction boosts local housing strategies and integrates the poorest members of society.”

38 The fundamental problem exists with the enforcement of those standards. There are no teeth to these standards, due to them being purely declaratory in nature. A country, therefore, can ignore the suggested Article 21 with near total impunity.

FIFA Regulations and Standards

FIFA also has a set of principles that attempt to ensure the adequate protection of housing rights. Governed by statutes, FIFA operates in the world of regulations and rules. Within that context, FIFA added an additional focus to its mission in 2005. This new mission had the goal to “develop the game, touch the world, and build a better future.”

40 FIFA also committed itself to focusing on sustainable development, as a tool to becoming more socially responsible. However, the lack of actual statutes and regulations prevents FIFA from taking progressive steps towards addressing the issue of housing rights.

41 Despite this lack of institutional pressures, FIFA has created contracts that try to guarantee transparency. The 2014 FIFA World Cup Hotel Agreement exists to ensure “fair prices and reasonable terms,” as well

36 Ibid.
37 Ibid.
38 Ibid.
39 Ibid.
40 Ibid. (page 14)
41 Ibid.
as, “facilitate the management of a huge centrally controlled hotel room inventory under FIFA World Cup conditions.”

Domestic Framework

The domestic protections to housing rights provide a layered approach to maintaining stability. At its foundation, the constitution provides for a system of checks that balances social needs and individual rights. The document demands that any application of expropriation be “subject to fair and prior compensation in cash”.

The constitution further provides Quilombola communities with recognition. This recognition extends to their claim to traditionally occupied lands. These select communities have the rights these lands, despite the traditional culture of not owning land titles. The constitution allows them to assert their ownership right should they seek to gain title.

There are numerous protections of personal property in Brazil. Each type of land tenure has regulatory and statutory frameworks. The lawful tenure of land possession comes in the form of ownership, lease, or renting. Ownership, as provided for by Articles 481-528 in the Civil Code, provide for the most basic form of ownership acquisition - the basic purchase of a property. However, Brazilian land ownership can be acquired in multiple ways. Other forms of ownership are less transparent. Land can be taken by the government through eminent domain in cases of disaster or national development. The Civil Code allows the government to take the land under these circumstances, as well as, recognizes the taking of urban property through adverse possession. Formal leases are also protected in the Civil Code. These leases generally come in two forms - leasing of land or leasing of housing. Articles 565-578 of the Civil Code provide a solid foundation to create commerce. Individuals can elect to lease an urban piece

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42 Salcedo, “Brazil Bid: Fifa Inspection Report for 2014 World Cup.” (page 34)
43 Inter-American Commission on Human Rights, “Report on the Situation of Human Rights in Brazil.” In (citing Brazil Constitution, Article 5.XXIV)
44 Ibid
45 Rolnick, “Report 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.” page 103 APPENDIX II
46 Ibid
47 Ibid.
of property and construct housing, or can lease housing on a specific property. This is common in most
developed countries. Differently, though, communities can join together and take out communal housing
leases on a property to create joint tenements of responsibility. This seeks to provide the legal
framework necessary to create an efficient and predictable society, while also taking into considerations
the unique cultural norms of Brazil’s societal identity. Appendix I of the 2005 UN Habitat Report: Brazil,
attached at the end of the paper, outlines in fantastic detail the type of formal housing and the regulations
that create the legal protections associated with each of the types.

Informal housing mainly focuses on the leasing or renting of property without the formal
protections of the legal system. The UN defined informal housing as “any occupation of land with
inappropriate environmental-urban conditions for human housing, such as land subject to flooding, land
that is contaminated, land with poor access to public transportation, and so on.” The contracts of
‘ownership’ are not recognized by a formal body, nor are the details of the contracts enforceable. This
lack of recognition comes in two forms - judicial and regularized. Judicial protections come in the forms
previously discussed as legal protections. Regularized protection is the recognition of land possession that
directly lead to city / state construction of infrastructures necessary to sustain urban life including water,
sanitation, electricity, and roads. Many informal communities are forced to purchase water and electricity
on the same black market that they purchased the land, furthering their precarious position on the property.
Informal housing takes many forms. Owners can claim land without any title, some claim land with a title
not recognized by the state, while others informally own the land of those who have title to the land.

V. In-County Record for Hosting Mega-Events

Overview of Olympic Development Path

48 Ibid.
49 Ibid. (page 13)
50 Ibid.
51 Ibid.
The opportunity to host the Olympics provides host nations with the ability to create massive development schemes. Los Angeles, in 1932, was one of the first cities to take a long-term perspective in the development process for the Olympic Games. It constructed “the first Olympic Village with characteristics of permanent housing”. By the 1970s, the development of urban infrastructure had become a focal point in the preparation for such international mega-events as the Olympics and World Cup. This concept was further internalized by the 1980s, when “the Olympic Committee adopted a philosophy of progressive incorporation of the private sector in the promotion of the games”. By the 1990s, cities worked in conjunction with the mega-event organizers to use the event as a tool to expand their geo-political presence through infrastructure redevelopment. The most massive changes came when, in Barcelona in 1992, the Olympic Committee actualized their 1980s philosophy. They announced their “double agenda: modernizing infrastructure and promoting a new public image of the city by building innovative international architecture.”

Overview on Mega-Event Development on Housing

The benefits of hosting a Mega-Event are evident. The city, state, and federal governments work hand-in-hand to develop the relevant regions. They use these events as a way to motivate the public around massive development projects. These projects range from the renovation of waste management services to the construction of housing and culturally significant infrastructure. However, the shadow cast by these development projects unfortunately lands on those who are already part of an ostracized class - low-income, minority, and migrant people to name a few. Forced evictions and other less obvious tools are used to push those undesirables out of the affected areas.
The positive benefits of these development projects are clear. The mega-event provides the necessary incentives for a city / region / state to construct a new area that can compete in the global arena. These “beautification” projects are immensely important to the lives of the select population. Russia used the 1980 Olympic Village to create 18 buildings that were later used for local housing. London 2012 plans to allocate 35% of the 10,000 homes and “half of the 2,800 units in the Olympic Village” to affordable housing. The infrastructure required to support these events also must be renovated. This allows the host to design innovative mobility strategies. Beijing, in preparation for its hosting of the 2008 Olympics, built “a new airport, new train and metro railways and two ring roads.” The environmental impacts of these massive schemes have been recently recognized by the mega-event organizers. In this regard, host nations began to “include environmental strategies into their planning and take the opportunity to improve waste management facilities, reorganize garbage collection, clean streets and contaminated areas, build public parks, and other green initiatives.” Beijing, again, provides another elucidating example of these types of environmental projects. Beijing renovated 640km of sewer pipelines, in order to support the millions of visitors during the 2008 Olympic Games. The mega-event also facilitates the creation of local venues that specifically target the local population. For example, Seoul built new cultural houses and Barcelona built museums and theaters in the run-up to hosting the Olympic Games.

The negative externalities of these expansion projects, however, cannot be overlooked. The benefits of these improvement projects are not shared by the entire population. There is no parity between those who experience the economic benefits of these developments and those who are most impacted by these projects. The historically vulnerable communities are the ones who are generally not the benefactors of the economic ascension. Evictions are the first wave of assaults on protected housing rights that most

58 Ibid.
59 Ibid. (page 5)
60 Ibid.
61 Ibid.
62 Ibid.
63 Ibid. (page 6)
vulnerable classes experience as the development projects begin. The reason for this is two pronged. At face value, the local authorities need to implement massive development schemes in places where the population is not always willing to relocate for the ‘greater good’. Furthermore, the local authorities use these development schemes as rationales to remove unsightly slums from areas exposed to visitors. Compounding the issue of forced evictions is that those displaced rarely return to their rehabilitated areas after the mega-event is over, pushing the vulnerable populations even further outside the central areas. Beijing’s one million acre development project led to the forced evictions of entire populations often under the cloak of darkness by “unidentified men.” These activities displaced over 1.5 million people. For the 2010 Commonwealth Games, India forcibly evicted over 100,000 people.

Another less obvious assault on protected housing rights is the inevitable increase in housing costs. As the development project progresses, the Olympic and surrounding areas will see a spike in value. This societal benefit is mitigated by the economic externalities associated with this rising cost. It, in effect, prices those currently living in the areas out, forcing the vulnerable populations to move. Middle and Upper classes can brace themselves and internalize the rising housing costs, justifying it as an investment. Low-income and other ostracized communities don’t have this luxury. The only places these communities can afford to live in is “the outskirts of the city, losing their communal ties and enduring further impoverishment owing to a reduction of employment and schooling opportunities, as well as the increase in their commuting costs.” Atlanta is one of the clearest examples of this gentrification process, with “annual rent [increasing] from .4% in 1991 to 7.9% in 1996 in preparation for the 1996 Olympic Games.

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64 Ibid. (page 7)
65 Ibid.
66 Ibid. (page 8)
68 Rolnick, “Report 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.” (page 7)
69 Ibid.
70 Ibid. (page 8)
Not only are these vulnerable communities evicted and priced out, but the remaining cost-effective housing projects are generally the first to be destroyed in a development project. Governments don’t have to face the friction and push back from private land owners and are thus more likely to “demolish them [to create] open space for new developments.”\(^1\) One example is when Atlanta, for the 1996 Olympics, demolished 1,200 social housing units as part of the development project.\(^2\)

Additionally, those without proper claim to the land are even more adversely affected by these development projects. When governments ignore the legal protections against forcible removals of land owners, those living in informal settlements or slums are totally disregarded. Governments force these communities outside the city to make room for new transportation infrastructure.\(^3\) The authorities, then, “fail to compensate adequately, or offer alternative housing to the displaced residents of informal settlements.”\(^4\) The Elimination and Prevention of Re-Emergence of Slums Act, enacted in South Africa, is the codification of this general trend. The act sought to prevent homelessness, specifically those living in slums, from becoming an eye soar for the visitors of the 2010 World Cup by criminalizing it.\(^5\)

VI. The Issues in a Brazilian Context

Policing Power

As a threshold issue, the protections granted to the population by the Constitution and Civil Codes are only as good as those who enforce them.\(^6\) Here, the Brazilian government has a failed history of monitoring its enforcement agents. While it is true that Brazil has faced serious threats on its stability, it must face those threats with honest dialogue and concrete action. The violent gangs that control parts of Brazil viciously defend their drug territory with force and terror. In 2006, 43 officers were gunned down.

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\(^1\) Ibid.
\(^2\) Ibid.
\(^3\) Ibid. (page 9)
\(^4\) Ibid.
\(^5\) Ibid.
through a sustained attack by Sao Paolo gang members.\textsuperscript{77} In 2009, gangs shot down helicopters during a

turf war.\textsuperscript{78} These anecdotes merely provide glimpses into the experience of living in the favelas and

having to face a threat to life and property for decades.\textsuperscript{79} However, such fears do not excuse law

enforcement from practicing proper performance. Since Brazil won the right to host the Olympics, the

UN has examined this performance twice. Both reports were extensive and claim to have interviewed all

relevant actors\textsuperscript{80}. The first report was prepared in 2009, as a way of understanding the necessary changes

required for Brazil to adequately protect the rights of its urban poor. The second report was written in

2010 and will be explored in Section VII evaluating Brazil’s track record, so far.

The 2009 report exposed some glaring issues dealing with extra-judicial killings. The most egregious

of these killings involves the death squads of off-duty police officers. These death squads / militias “seek

out neighborhoods to control in order to extort money from citizens, and commit murder to maintain their

territorial control”.\textsuperscript{81} Favelas are the militias preferred neighborhoods, as they are the ones easiest to

control with the least amount of accountability. The report defines favelas as “slum areas of major cities

where concentrated populations are grossly economically disadvantaged and largely left without any state

service”.\textsuperscript{82} The cover of the favelas provides an ideal staging ground to attack the major city

metropolitans. The murder rate in 2007 in Rio, alone, was 37.71 per 100,000, excluding police killings.

These rates are artificially low because of the two-fold attack by police on civil liberties. The first

factor not included is the illegal death squads used to control the urban poor. The general consensus, at

the time of the 2009 report, was that 92 favelas were controlled by these militias.\textsuperscript{83} The second factor to

consider is what the police call “resistance killings”. The report found that often police kill a suspect

\begin{thebibliography}{9}
\bibitem{77} Ibid.
\bibitem{78} Ibid.
\bibitem{79} Janice E. Perlman, \textit{Favela: Four Decades of Living on the Edge in Rio De Janeiro} (Oxford University Press, 2009).
\bibitem{81} Ibid.
\bibitem{82} Ibid. (page 5)
\bibitem{83} Ibid. (page 9)
\end{thebibliography}
rather than apprehend the suspect and classify the event as a “resistance killing,” with over 11,000 individuals killed under this label by police in Rio and Sao Paulo alone.\textsuperscript{84} This classification allows for unaccountable killings because the police have a systemic problem of following up on these specific killings.\textsuperscript{85} Furthermore, most human rights violations rarely get removed to the federal courts, even though Brazilian civil procedure allows a plaintiff to take such an action, leaving the cases to wallow in the doldrums of the local court system.\textsuperscript{86}

These factors are incredibly relevant to the development projects, and therefore to the rights of the urban poor, because the police provide the final check on government control. If the police aren’t accountable, then the rules are irrelevant. The constitutional checks and civil protections are not important as a shield for the poor when the police have full authority to disregard the law for personal and professional gain. The precarious nature of the policing power, and the “extra-legal crime-fighting tool”\textsuperscript{87} of extrajudicial killings essentially destroys the protections granted by the courts and legislature.

The development required for these projects are massive. The port must be improved to provide for the large shipments of construction material. The urban sprawl of Rio, specifically, requires the injection of 113,000 additional housing units. The revitalization of the areas around the arenas must be redeveloped. The area around the Sambradome is being expanded and the João Havelange Stadium is being renovated. Additionally, the Olympic Park will be a diversified area, including residential, commercial, sports, and leisure facilities. The Athletic Village will be 48 buildings with 12 floors for a total of 2,448 apartments.

VII. Brazil’s Track Record So Far

Improvements in Extra-Judicial Killings by Police

\textsuperscript{84} Ibid. (page 6)  
\textsuperscript{85} Ibid. (page 6)  
\textsuperscript{86} Ibid. (page 15)  
\textsuperscript{87} Ibid. (page 10)
The 2010 report by the same Special Rapporteur, Alston, outlined the improvements Brazil has made in light of the 2009 report. In 2010, Alston found that the Brazilian government made significant strides in addressing the abuses by the police force. To put the threats faced by the police into perspective, merely three months after the May 2010 report came out, a weekend killing spree resulted in the death of 22 people, including the destruction of 5 buses and a police station.\textsuperscript{88} Despite this continued threat, the government has been responsive to the recommendations by the UN Special Rapporteur. The Federal Government “endorsed a set of human rights guidelines (Programa Nacional de Direitos Humanos 3), which incorporate some of the Special Rapporteur’s recommendations.”\textsuperscript{89} The Special Rapporteur created a system of follow-ups as a method to confirm whether the recommendations had been internalized and initiated.

One recommendation was the increase in police salaries. In order to discourage police from organizing into militias for economic gain, “the federal government has promised increased salaries to improve security in anticipation of the World Cup in 2014 and the Olympic Games in 2016.”\textsuperscript{90} Moreover, in order to combat the rogue death squads, the Rio government created a specialized squad to enter specific favelas. These units are called Unidades de Policia Pacificadora (UPP). The purported goal was to remove the gangs from the favelas, but with an eye towards not undermining local support structures. Providing officers with human rights training, along with larger salaries, have been a few of the methods used to encourage a transparent and accountable system of policing.

Another recommendation the government has internalized is the limiting of the police’s ability to label the killing of suspects as “resistance killings.” The government claimed to have put this issue on a


\textsuperscript{89} UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Addendum : Follow-up to country recommendations - Brazil, 28 May 2010, A/HRC/14/24/Add.4, available at: http://www.unhchr.org/ef/frames/docid/4c0765 (Summary)

\textsuperscript{90} Ibid. (page 5)
pedestal and deemed it a “‘fundamental objective’ of the Government.” However, this fervor was not maintained, and the number of “resistance killings” declined slightly, only to rise back up to pre-2009 numbers. Rio exemplifies this trend with “80 per month at the start of 2008, [decreasing] to 36 in September.” However, by the end of 2008, the killings returned to a rate of 94 per month.

The 2010 report concluded that while some progressive actions were taken, Brazil still needed to institute major reforms if it desired to be a freer and fairer country. These 2010 recommendations will be analyzed below in Section VIII.

Informal Housing

Brazil has attempted to address the issues arising from informal housing on multiple fronts. One attempt to increase social services to these informal communities has been through regularization of land title. Here, the government will recognize a possessor’s claim to the land and provide running water and electricity. The requirements for government recognition are fairly basic: proof that the land is used by the possessor, the land is the possessor’s sole piece of property, and the possessor can afford the cost of government services. The benefits to the possessor are straightforward. A person can gain government recognition of housing rights and the government services that flow from that, no longer being forced to purchase these from the black market at an unpredictable and prohibitively expensive price. The societal benefits are clear. A person no longer has to worry about the land being taken away from them and can begin to develop the property. Furthermore, the benefits to the government are just as recognizable. Brazil can administer a property tax, develop the infrastructure, and provide incentives for future development projects in that area. Zones of Special Interest are also now being used in Brazil to provide

91 Ibid. (page 6)
93 Ibid.
95 Ibid. (page 22)
even more legal protections for informal settlements. These areas are specifically designed to support social housing purposes. Master plans and development projects can be useful for facilitating the formalization of these housing settlements. However, these zones are not being used as efficiently as they could be. These communities still lack basic services and governmental protections. The UN found that 28% of people living in informal settlements lacked at least one social service, such as water or electricity. The housing deficits of the 2000s still have not gone away, either. The deficit of 5.4 million houses in urban areas contributes to the reliance on informal housing settlements. Brazilian culture encourages families to live close to each other and financially support relatives. Therefore, a UN report stated it was “common to find many extended family members, distant relatives, or even friends crowding into a single shack unfit for even one family.”

Quilombola Communities

Brazil’s track record for these specific communities has been abysmal. Even though there are protections for these communities, the institutional inertia is severely limiting. The 1988 Constitutional protection has provided an institutional protection; however, it has not played out well in practice. Organizations have prepared extensive data on this subject, in the run up to the 2012 United Nations Conference on Sustainable Development (also known as Rio 20+). Only around 10% of the over 5000 Quilombola communities have received legal title. Quilombola communities must enter the legal world to defend their titles. Should a mining company, developer, or private land owner seek to develop a traditionally Quilombola area, the only defense is through the court systems. However, that is slow and cumbersome process with little results. A report found that “there are 129 lawsuits related to titling of 40 Quilombola areas scattered around 14 States.” This means that even though the community has a right

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96 Anna Kajumulo Tibajjuka, “Land Tenure, Housing Rights, and Gender Review: Latin America.” (Page 35)
97 Ibid.
99 Ibid.
100 Centre on Housing Rights and Evictions (COHRE), SUBMISSION: Brazil. (page 17)
to the property, it is nearly impossible to get the courts to recognize it in an efficient way. While the court
debates the legality of each claim, the developer can forcibly evict those families. This is illegal, but the
system is too clogged and the country too big for this to actually be prevented. Other institutional
pressures have not changed. The Brazilian Navy still does not recognize the Quilombola communities’
claim over areas that are used for military drills, training, and testing.101 These attacks have the dual
impact of stealing the natural resources away from the communities, and stealing the culture and social
support structures of these communities by removing them from their historical lands.

Furthermore, Brazil is changing the administrative structure that protects these communities and
encouraging transparent interactions to solve this institutional gap. The leader of the most influential
group representing the Quilombola communities, Damião Braga of National Front in Defense of
Quilombo Territories, stated that one major threat is “the Proposed Amendment to the Constitution (PEC)
#215 that moves power for the demarcation of indigenous lands and the entitlements of Quilombola
communities from the Executive Branch to the National Congress.”102 This would further place these
communities’ territorial claims in an even more precarious position because it would subject the right to
own land to the whims of the legislature.

Additionally, these communities’ land holdings are not by definition set as a part of the General Real
Estate Registry. Without these internal protections, developers and contractors have no easy access to
land right holdings. Therefore, it is inevitable that those rights will not be protected. An example provided
by Braga provides an elucidating example, “Referring to the Pedra do Sal community, located in Saúde, a
neighborhood in Rio’s downtown Port Region, according to Braga the area is suffering the direct impacts
of the Porto Maravilha port revitalization project that aims to prepare the city for the 2014 World Cup and
the 2016 Olympics.”103

101 Ibid. (page 17).
102 Ibid.
103 Ibid.
VIII. Potential Solutions

Perspective to view solutions

Question: To what extent should those third party actors have influence over the domestic policies guiding the development process? Cultural relativism is a key component of navigating international development. Each culture has unique characteristics that encourage or discourage transparent development schemes. For example, in China facilitated payments exist as a way of doing business. Those payments are considered bribes by most standards. However, they are institutionalized in Chinese commerce. To what degree should the international actors, FIFA and IOC, change the corporate culture as a way to encourage transparent and inclusive development?

Policing Power Recommendations

The easiest policy point that the 2010 UN report by Special Rapporteur Alston suggested was maintaining a transparent and accountable police force. Alston recommended that “the government should ensure that the statistics agency remains independent of the Security Secretariat.” Such a simple suggestion provides for massive protections. Here, the local police would be subject to the scrutiny of the state and federal agencies. Those agencies would, therefore, be forced to enter the conversation every time the classification of “resistance killing” was used.

Another policy suggestion by Alston’s 2010 report was the internalization of social services into favelas. The report argues that although the UPPs have been successful at rooting out corruption in the favelas, the “promised social services…were slow to be implemented, and those residents’ associations were not always consulted on social projects.” These social services with local involvement are critical to the success of a stable city. Without the active participation of the community, any attempt to control

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105 Ibid. (page 8)
the society will be met with animosity and disdain. The key is to integrate the local favela communities in
the conversation on who the police force will be and how they will operate inside the community.

**Housing Rights: Brazil Actions**

As the country enacting the massive development changes, Brazil is in the best position to take
preventative steps against the infringement on housing rights. It must create internal checks throughout
the system of government, from local authorities to federal agencies. Brazil must embed standards and
commitments to housing rights into the development project. Those wishing to get federal bids to develop
must show that they have analyzed the potential impacts of the development. The impacts should
include both the actual evictions required and the rising cost of living that may have the potential impact
of pricing people out of their homes. Should evictions become a necessary part of the process, Brazil
should have a transparent system in place to explain the process and provide adequate compensation. For
those who feel that they have not received adequate compensation or information, there must be a place to
file grievances. Brazil needs to make this a priority, unlike the filing to Quilombola titles that have
wallowed in the doldrums of the court system.

Part of the process of institutionalizing housing rights must include collaboration with those most
affected by the developments. State and local officials must work diligently to understand their view and
use that view to shift developments in a more sustainable way, potentially focusing on developing
affordable housing in certain areas for low-income family needs. The local communities, those most
affected, are normally the vulnerable communities of discrimination. Therefore, future developments or
changes in the current development scheme must include certain protections. These protections include
“(a) Legal security of tenure for owners, tenants, and occupants. (b) Protections against forced evictions,
discrimination and harassment of local populations in connection to the event, and remedy for victims. (c)

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106 Rolnick, “Report 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.” (page 19)
Programmes for the resettlement of and compensation for the affected population.”\textsuperscript{107} Additionally, laws must be passed that further strengthen the rights of homeless people.\textsuperscript{108} Those individuals who lack any housing need not be subjected to the whims of police and other enforcement mechanisms. The state and federal legislature need to make substantial steps in sending a message that this vulnerable community is not solved or helped by sending them to the outskirts, pushing them farther away from social services. The steps towards solidifying housing rights in Brazil require coordinated tactics between all branches of government horizontally and between all levels of government vertically. However, the International Olympic Committee and FIFA may also take steps to initiate Brazil’s compliance with their own constitutionally protected housing rights.

**Housing Rights: International Olympic Committee and FIFA Actions**

The international organizations can supplement the process of protecting housing rights through concrete and pragmatic steps. These recommendations can be done by Brazil as well, but the IOC and FIFA are in the best position to address these specific issues. The first deals with transparency in commerce. The IOC and FIFA should demand transparent contracts between corporate sponsors and Brazil. By transparent, we mean the use of international labor standards, independent certifications for wage earners, and the encouragement of trade unions. The most important requirement that IOC and FIFA should demand is the adequate assessing of impacts to vulnerable communities. The UN report on housing rights provides these lasting demands on host cities, which Brazil would be advised to incorporate:

(a) Strategies for monitoring the housing impact throughout the organization and after the event; (b) Procedures to investigate and sanction violations of the right to adequate housing and to offer redress to victims; (c) Regulations and procedures to enforce security of tenure; (d) Regulations and procedures to protect against forced evictions, discrimination, and harassment against local residents.

\textsuperscript{107} Ibid. (page 20)  
\textsuperscript{108} Ibid.
populations in connection with the event; (e) Mechanism to provide compensation and resettlement for affected persons.¹⁰⁹

IX. Next Steps

This paper seeks to explore the cultural uniqueness of Brazil, while at the same time provide standardized procedures that protect those individuals that contribute greatly to the uniqueness of the Brazilian Culture. When those communities who are most vulnerable to development schemes get removed or pushed out of a society, the society loses something incredibly important; the national identity changes. It does not notice the shift, but it has moved backward. Brazil has been willing to sacrifice those who comprise its identity for the rush of development. Only with the joint and collaborative effort of protection can the steps be made to adequately protect those vulnerable communities. It is not easy, but it is practical.

I will be traveling to Brazil this summer to study urban development projects. I will meet with a few decision-makers and discuss the ideals proposed in this paper. Upon my return, I will write a follow up publication to articulate to what extent these are possible in the country, once I have observed the culture first hand and actually spoken with those most affected by the push to develop and prepare for the Olympics and World Cup.

¹⁰⁹ Ibid. (page 20)