

CENTRE ON
HOUSING RIGHTS
AND EVICTIONS



Written Submission
of the
Centre on Housing Rights and Evictions (COHRE)
to the
Committee on Economic, Social and Cultural Rights
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1. INTRODUCTION

The Centre on Housing Rights and Evictions (COHRE) herewith offers the present report to assist the Committee on Economic, Social and Cultural Rights (CESCR) in assessing information provided by Brazil to the list of issues (E/C.12/BRA/2) concerning the rights covered by Art. 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). It has also the aims of providing recommendations to the State Party as well as facilitating civil society input into this procedure.

The present submission addresses questions 25 and 27 of the list of issues and provides for additional relevant information on access to water and sanitation in Brazil. Matters addressed include (i) *Quilombo* communities' land rights; (ii) national policies for housing and urban development; (iii) national policy for preventing urban land conflicts and evictions; (iv) forced evictions in Curitiba; (v) forced evictions in Goiania; (vi) forced evictions in Sao Paulo; (vii) access to water and sanitation.

Question 25 of the list of issues of the CESCR requires the State Party to provide information on “measures being taken to accelerate the process of identification of the *Quilombo* communities as well as the distribution of their respective title deeds to such communities and completing the removal of all illegal occupants from the specific indigenous communities”.

Question 27 of the list of issues of the CESCR requires Brazil to provide information “on the extent of the prevalence of forced evictions in the State party, in particular in Curitiba, the State of Parana and at Parque Oeste of Goiana, including disaggregated data on the number of affected persons and families. Please also provide information on the implementation of the National Policy on Urban Development and the National System for Social Housing, including any measures contemplated to implement Resolution n. 31 of the National Council for Cities.

Concerning the internal application of the ICESCR, as reported by the State Party in its report (para. 55), the Constitutional Amendment n. 45/2005 requires the incorporation of international treaties into the national legal framework with constitutional status, provided that they be approved by the National Congress with a special quorum. This amendment must be considered progress, however, up to the moment, constitutional status has been only given to one international treaty, the Convention on the Rights of Persons with Disabilities. Even though the national legal framework establishes a set of remedies for violations of economic, social and cultural (ESC) rights, those remedies are usually ineffective because courts tend to consider such rights not enforceable.¹

COHRE urges the State Party to give constitutional status to the ICESCR as expeditiously as possible, so victims of violation of rights recognised in the Covenant can access constitutional judicial remedies.

¹ For instance, the Federal Supreme Court (STF) held that the prohibition of judicial alienation of an individual's house is not applicable to the guarantor of a rent contract (Recurso Extraordinário n. 407.688, judged on 8 February 2006). This interpretation allows for the eviction of an individual or family from their house in order to ensure the payment of another person's debt, and therefore it limits the scope of the right to housing. In another case, the Superior Tribunal of Justice (STJ) held that water services can be interrupted by the provider due to lack of payment, regardless of the user's social condition (Embargos de Divergência em Recurso Especial n. 337965, judged on 22 September 2004). This was a retrogressive measure since in the past the same Court had stated that water service debts couldn't lead to disconnection of services, as they only could be charged through a judicial claim (Recurso Especial n. 201.112, judged on 20 April 1999 and Recurso Especial n. 122.812, judged on 5 December 2000)

2. LAND AND HOUSING

2.1. QUILOMBO LAND RIGHTS²

Legislation regulating land ownership has not been properly implemented by the Government in order to provide land titles and access to natural resources to the *quilombo* communities. Since the approval of the Federal Constitution in 1988 (Art. 68 of the Transitory Dispositions)³, which guarantees the right of property to the communities of the *quilombo* territories, the legislation regulating the titling procedure has never been effective in actually delivering title.

In 2008, 23 *quilombo* communities were granted land titles issued by the States of Pará, Piauí and Maranhão. Thus, the total number of *quilombo* communities that have acquired land titles increased to 185, which amounts to 980.863 hectares in total. None of the titles were issued by the Federal Government. The National Institute of Agrarian reform (INCRA) has neglected its obligation to title *quilombo* lands and to advance administrative procedures. More than 600 administrative procedures have started before INCRA but only 220 were actually carried out. Indeed, most are pending, awaiting further technical analyses or political decisions regarding demarcation, titling and conflict resolution over *quilombo* territories. In 2008 only 19 *quilombo* territories had the first titling phase concluded, namely the elaboration of the Technical Report of Identification and Delimitation (TRID) of the area to be titled⁴.

It is also troubling that the Government has reviewed the by-laws regulating Decree n. 4887/2003, which establishes the titling process of *quilombo* lands, without carrying out proper consultations⁵. Through derogation of Normative Regulation n. 20/2005 (INCRA) and adoption of Normative Regulation n. 49/2008, the Government undermined the concepts of self-identification of *quilombo* identity and of territories, which are to be taken into account in the titling procedure. For the new regulation, self-identification as *quilombolas* is no longer regarded as a fundamental criterion for determining the communities to whom the provisions of Art. 68 of the Constitution apply. Rather, they will be considered *quilombolas* for the purpose of benefiting from property titling procedures only if the Cultural Foundation Palmares issues a certificate saying so. The concept of ‘occupied territories’ enshrined in the new regulation no longer refers to the natural resources necessary for the preservation of their costumes, traditions, religion, and places of habitation.

Furthermore, Decree n. 4887/2003 is being challenged before the Supreme Federal Court (STF) as the Democrat Party (former Liberal Party) has argued its unconstitutionality (ADI n. 3239).

² The *Quilombos* were originally villages set up by slaves who had sought their liberty by fleeing from the farms and their colonial masters. These villages became the areas of residence, resistance and social organization, and were managed according to their rules and costumes. The meaning of quilombo engenders the practice of an autonomous productive process which combines the common use of natural resources with the free commercialization of the production (ALMEIDA, Alfredo W. *The Quilombolas and the Alcantara Rocket Launch Centre*. Ministry of Environment, Brasília, 2006).

³ Art. 68: “Final ownership shall be recognized for the remaining members of the ancient runaway slave communities who are occupying their lands and the state shall grant them the respective title deeds”.

⁴ The Brazilian NGO Pro-Indio Commission, based in Sao Paulo, monitors progress of land titling administrative procedures initiated, advanced and conclude by INCRA. All information was taken from www.cpis.org.br and http://www.cpis.org.br/pdf/boletim05_terras.pdf

⁵ Because the revision of the abovementioned legislative measures related to land titling procedures was carried out without informed and in good-faith consultation, the National Coordination of Quilombo Communities (CONAQ), through the Single Confederation of Workers (CUT), presented a Communication to the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organisation (ILO) in September 2008 alleging a breach of 169 Convention on Indigenous and Tribal Peoples. The Committee of Experts issued its observations to Brazil during its session in December 2008.

The STF has scheduled the judgment for April and *quilombo* organizations are very concerned about the possibility that the Court will declare the Decree unconstitutional, which will affect all on-going and future titling procedures.

As the backlash against *quilombo* communities' right to property and land progresses, *quilombo* communities become extremely vulnerable to threats of forced evictions by land owners, mining companies, and development projects which seek to take possession of their lands and natural wealth.

COHRE recommends that the State Party make greater efforts to defend the constitutionality of Decree n. 4887, expedite the issuing of property titles and resolve land-ownership problems. To counteract damage to the cultural identity and religious, family and economic traditions of the Afro-Brazilians, minorities and indigenous communities, their right to property, housing and land must be actively promoted by the State Party.

2.2. NATIONAL POLICIES FOR HOUSING AND URBAN DEVELOPMENT

The design of a National System of Urban Development is being debated by the Ministry of the Cities and the National City Council. A bill is being drafted to create such a system, aimed at the articulation and integration of the National Policy of Urban Development with state and municipal urban development policies, which shall be managed through decentralized, regional and participatory mechanisms. The National Policy of Urban Development would integrate the policies of housing, sanitation, urban mobility and urban planning by establishing principles and guidelines to orientate public action on the production and management of the cities. The discussion and approval of such a policy and system are fundamental for regulating and organizing territorial planning and management among federal, state and municipal levels, considering the wide dimension of Brazil and its socio-territorial inequalities. The National City Council is meant to be the consultative, deliberative and monitoring organ of the national policy of urban development.

COHRE recommends that the State Party broaden the discussion of both national policy and system of urban development with relevant stakeholders, particularly at municipal and state levels, with a view to approve a law regulating their objectives, instruments, functioning, etc.

In April, the Federal Government launched the programme “*My House, My Life*”, which aims for the construction of one million houses for families who earn up to 10 times the minimum wage per month (USD 2,043.00). The Government intends to invest 34 billions of Reais (around USD 15 billion) to finance the construction of houses, with a maximum cost of USD 57,000 per unit. 400 thousand units, integrally financed, will be assigned to low-income families, which earn less than three times the minimum wage monthly. The amount financed by the Government shall be paid back in 10 years, in monthly instalments that will not amount to more than 10 per cent of the family monthly income. Registration and other paperwork costs will be subsidized to reduce the final costs of the units. Persons with disabilities will have priority and the titles would be assigned preferentially to women.

COHRE notes positively the efforts of the Government to address the financial crises through this broad and comprehensive housing programme. However, it is important to note that an intervention of such magnitude cannot prescind from a territorial and urban strategy; otherwise the result would be a substantial increase in land prices. The UN Special Rapporteur on Adequate Housing warned the Government that if such a programme does not encompass a land strategy and is not integrated into the National Housing Plan, which had been discussed with civil society for more than one year, the results would be either the appropriation of the subsidies by the

landowners or the allocation of the cheapest tracks of land to the low income families.⁶ Furthermore, the programme focus on the sole strategy of building new houses, without taking into consideration other forms to facilitate and democratize access to land and housing, such as social rent, slum upgrading, land titling, development of unused and empty public buildings, among others.

The policies and programmes will not *per se* reduce the housing deficit significantly if they are not combined with the application of instruments to guarantee access to land and property rights by the poor population. An integral, comprehensive and socially oriented approach to land and housing rights is necessary in order to improve the poor population's lives. Treating access to land simultaneously as a human rights concern and a development concern will be a fruitful way to implement public policies with a human rights-based approach.

COHRE urges the State Party to encompass a land and territorial strategy into the housing programme, to integrate such a proposal with the National Housing Plan, as well as to discuss its implementation with different stakeholders other than the real state market.

2.3. NATIONAL POLICY FOR PREVENTING LAND CONFLICTS AND EVICTIONS

COHRE acknowledges the approval of Administrative Rule n. 587/2008⁷ by the Ministry of Cities, in coordination with the National City Council, which establishes a mechanism and procedure by which information on and challenges of forced evictions will be received and processed within the Federal Government. The National Secretariat of Urban Programmes will be responsible for articulating diverse institutional mechanisms in order to achieve a negotiated solution for land conflicts.

In March 2009, the National Council of Justice (CNJ) approved Recommendation n. 22 and Administrative Rule n. 491 to orientate judges, tribunals and courts to prioritize the judgment of suits related to land conflicts. At first glance, this initiative could be seen a response to the long standing civil society demand for the Judiciary to prioritize agrarian reform and to combat agrarian violence. A National Forum, composed of judges and justices, was created to implement these regulations. However, the recent statements delivered by the President of the Federal Supreme Court and of the CNJ, Minister Gilmar Mendes, made clear his support for a strategy leading to the criminalization of social movements who struggle for land and agrarian reforms. This raises the question of what the priorities of the CNJ might be – those suits related to illegal land grabbing and criminal forfeiture carried out by large landowners or only those where landless peasants and leaders of social movements figure as defendants? Will the Judiciary tackle the problem of land concentration and distribution? For instance, data of the National Institute of Agrarian Reform shows that in 2007 there were 157 expropriation processes pending before the courts, waiting for judicial decisions that would benefit more than 15 thousand landless families. Wide sectors of the Judiciary have been efficiently addressing the protection of large private landowners but when the matter is combating violence against rural workers, the norm has been impunity for such violence. For instance, from 1985 to 2006, 1,464 peasants were assassinated and only 80 perpetrators were convicted.⁸ In this sense, for the Judiciary to contribute to reduce land conflicts and impunity, the Judiciary must promote the participation of

⁶ See full article issued by Mrs. Raquel Rolnik, UN Special Rapporteur on Adequate Housing at <http://www.forumreformaurbana.org.br/projetos/clientes/noar/noar/UserFiles/26/File/As%20armadilhas%20do%20pacote%20habitacional.pdf>

⁷ This Administrative Rule is a result of the application of Resolution n. 31 of the National Council for Cities.

⁸ Source: Pastoral Land Commission. <http://www.cptnac.com.br/>

civil society in the discussion and implementation of alternative solutions for such problems, based on the respect of human rights.⁹

Furthermore, there are still a number of concerns raised by massive and violent forced evictions in both urban and rural areas. COHRE is concerned that Brazil is failing to fulfil its obligations to prevent forced evictions and to protect the right to land and to housing of the poor. The affected communities are normally neither consulted prior to the evictions nor given adequate notice. As highlighted by the UN Special Rapporteur on Adequate Housing after his mission to Brazil in 2004, “there is an urgent need for the Government to adopt measures and national legislation to ensure protection against forced evictions and to ensure that any evictions are carried out in strict conformity with existing international obligations.”¹⁰

COHRE calls upon the State Party to address the high levels of violence and continued attacks on landless peasants, rural workers and activists in the context of land disputes and the call for agrarian reform. COHRE urges Brazilian authorities and courts to exercise due diligence by investigating and prosecuting those responsible for these murders, attacks and threats and thereby fulfil its obligation to respect and protect the right to life and personal security of these individuals and communities.

2.3.1. Forced Evictions in Curitiba

Since the last report was presented to the Committee by COHRE in April 2008, new events of forced eviction took place in Curitiba. The most violent one was the eviction of 1,000 families – approximately 6,000 persons – from a private urban area named Fazendinha, on 23 October 2008, was determined by a judicial order issued by a judge of the 19th Civil Jurisdiction of Curitiba, Ms. Júlia Maria Tesseroli. She issued an injunction order on behalf of the alleged landowners, and gave a five day notice to the occupants to leave the area. The vacant land owned by Varuna Real State and Construction Company had been occupied in September by homeless families. The purchase of the land from the municipality is pending of the registration of the area is in the name of Varuna Company. The forced eviction was violently implemented by 1000 military police¹¹ who used bombs and rubber bullets against the community, including children. More than fifteen people were injured; among them a 8-year-old boy and a filmmaker from Quem TV, Mr. Anderson Leandro, who was shot in the face. Public authorities were not present at the moment and no alternative accommodation was offered to the families. After the eviction, 300 families moved to the property sidewalk, located at Theodoro Locker and João Dembinski streets.

The residents and housing rights organizations¹² sent several communications to the Municipality of Curitiba and to the State of Paraná demanding for a negotiated solution and for alternative accommodation to the poor families.¹³ However, on 31 October the Municipality of Curitiba filled an injunction with the local court to evict the remaining families from the sidewalk, alleging violation of municipal ordinances and traffic disturbance. The injunction was conceded by the judge and subsequently suspended by the Tribunal of Justice of the State of Parana due to a recourse presented on behalf of the occupants. The Tribunal also ordered the Municipality to

⁹ Many social movements and NGOs raised concerns regarding the objectives underlying Recommendation n. 22 and Administrative Rule n. 491 of the CNJ. For more information see www.terradedireitos.org.br

¹⁰ Report by Mr. Miloon Kothari, Special Rapporteur on Adequate Housing, on his mission to Brazil, from 29 May to 13 June 2004, submitted pursuant E/CN.4/2005/48/Add.3 at para 70.

¹¹ The Military Police force is under the control of the State of Paraná.

¹² Such as the National Union for Popular Housing, Land of Rights, the Centre for Popular Movements, the human rights NGOs Terra de Direitos e IDDHEA.

¹³ The following public authorities were notified: the Mayor's Office, the Social Housing Company of Curitiba (COHAB), the State Secretariat of Public Security, the State Secretariat of Urban Development, and City Council Paraná.

provide adequate shelter for the occupants. The Municipality appealed this decision, which was then overruled: the occupants could be accommodated temporarily in municipal provisional social shelters instead of accessing permanent and adequate ones. On 5 November, Mr. Celso Edit, 38, one of the residents of the sidewalk was killed with 15 shots by three men who have yet to be identified by the police. The case was reported to the UN-Habitat Advisory Group on Forced Evictions and to the UN Special Rapporteur on Adequate Housing. Furthermore, the following cases of forced evictions and threatened forced evictions also took place within the last three years¹⁴:

a. In Curitiba

- 40 families from occupation of Rio Negro St., Bairro Alto, March 2006;
- residents of occupation Bairro Novo Mundo, 21 March 2007;
- Community Association of Sambaqui, Bairro Sitio Cercado, August 2007;
- residents of occupation Campo Comprido, 7 March 2007;
- residents of occupation of Vila Araguaia, Bairro Capão da Imbuia, 8 May 2008;
- threaten evictions against the residents of Conjunto Habitacional Monteiro Lobato III, Bairro Tatuquara, threatened since June 2008; occupation Bairro Santa Quitéria I, threatened since March 2007; occupation Jardim Bela Vista, Bairro Tatuquara, in 2004 and 2007; occupation Santa Quitéria III, threatened since August 2007; occupation Catadores Sociedade Barracão, Bairro Boqueirão, threatened since January 2007.

b) In the Metropolitan Area of Curitiba

- 60 families in the Municipality of Campo Magro, May 2005;
- residents of occupation Jardim Passaúna, Municipality of Campo Magro, 19 July 2008;
- residents of occupation Águas Claras, Municipality of Campo Largo, December 2006;
- 60 families from occupation Jardim Itaqui, Municipality of São José dos Pinhais, in 2007 and 2008;
- threatened forced evictions against the 26 residents of Jardim União, Municipality of Pinhais, January 2006; 65 families of Vila Graciosa, Municipality of Pinhais, and 120 families of occupation Portelinha, Municipality of Araucária, threatened since 2008.

2.3.2. Forced Evictions in Goiânia – the case of Sonho Real¹⁵

In February 2005, four thousand families were forcibly evicted from the Sonho Real settlement, located in a private area at Parque Oeste of Goiânia. In the course of implementing the evictions, two people were shot to death, hundreds were injured and 800 hundred were arrested. The landowners owed more than US\$ 1 million on property taxes to the municipality.

After evicting the families from Parque Oeste, the State Government lodged them in Setor Grajaú. This allegedly temporary situation lasted for more than two years, with families living in sheds made of canvas and under precarious infrastructure until the Government finally provided them with proper homes in a public settlement project (“Residencial Real Conquista”). Currently there are 1,200 families living in the area, while 21 families wait for the conclusion of the second construction phase of the project and other 20 remain in the sheds. The area lacks decent public facilities, such as day care centers, schools and health centers.

¹⁴ Reports on these cases were sent by the human rights NGO Terra de Direitos to the UN Habitat Advisory Group on Forced Evictions in October 2008.

¹⁵ Information on this case was provided by the National Rapporteur on Adequate Housing and Urban Land, Mrs. Lucia Moraes, who is monitoring the aftermath of the eviction and the solutions offered by the government. Information on this case can also be accessed at COHRE report “Desalojos en America Latina: los casos de Argentina, Brasil, Colombia y Perú”. Download from http://www.cohre.org/view_page.php?page_id=120

During the visit of the National Rapporteur of Adequate Housing and Urban Land to Residential Real Conquista, in August 2008, dwellers reported constant interruptions in water supply, when they were supposed to cope with 3-4 days with no access to potable water. Moreover, until now the Government neither has paved the streets nor has delivered infrastructure services such as sewage and sanitation. The new settlement is located in the outskirts of the city of Goiânia, far way from jobs and other urban facilities. Furthermore, the investigation of the assassination of Pedro Nascimento and Wagner Silva Moreira has been run in a very slow pace, and the judicial decision regarding the payment of compensation for those violently evicted is still pending. On the other hand, community leaders who resisted the eviction – Mr. Américo Novais and Mr. Josuel Pereira Feitosa – are being accused of attempted murder related to an incident that occurred during the implementation of the eviction, when a policeman was shot and injured. This case will probably go on trial this year.

2.3.3. Forced Evictions in Sao Paulo¹⁶

In the last three years, forced evictions have turned out to be a common practice in São Paulo as a result of development-based projects and market-driven initiatives. Although the municipal master plan (Law n. 13.430/2002) has demarcated a few Zones of Special Social Interest in the territory of the city, which are assigned to the construction of social housing and for slum upgrading projects, many of them have been subject of legislative review because they are located in valuable central areas, where the real state market sector has a special interest too.

Furthermore, the centre of Sao Paulo concentrates a lot of empty and unused buildings, which have been occupied by homeless families in the last few years. Many of these families were evicted and have yet to be referred to any alternative settlement. Some are receiving rent subsidies because the Office of Public Defender obtained a court order compelling the City Hall of São Paulo to do so until a permanent solution is found to house the evictees. Many other low income families are being threatened with forced evictions due the implementation of a socio-environmental project aimed at improving the sanitation conditions of one of the main water reservoirs, the Billings dam. Although the project has its merits, the families who have been living in the area for more than 10 years are getting a 10-day notice to vacate the area and are being offered meagre compensation for their current houses. Because of massive investments are being poured into the city, attracted by improvements on transportation and infrastructure (such as the expansion of the international airports and the construction of new sites for the 2012 World Cup), the imminence of forced evictions to clean up valuable urban areas is a reality.

Such evictions have been discriminatory as they are affecting mostly low income population, to whom decent alternative shelter or proper and just compensation is not being offered. The most recent instances of forced evictions include the following cases:

a) Parque Cocaia I - Grajaú

In February 2009, 250 families were given 10-day notice by the City Hall and the State Government of São Paulo to vacate the area, in order to make way for public works related to the Manancial project. On 16 February 250 families were actually evicted and were paid ‘compensation’ of USD 4,000 each. The project affects more than two thousand families living in 80 communities, who shall be evicted by 2012. However, middle class families living in the same area are not being threatened with forced eviction.

¹⁶ Information on these cases was provided by the Popular Movement Central (CMP) and the Movement Centro Vivo.

b) Edifício Mercúrio – Sé

On 11 February, 32 families who had been living in the building Mercúrio for more than 10 years, were evicted without being offered any alternative housing solution. Since December 2008 the families living in the 144 apartment had been instigated by policemen and municipal public servants to leave the building and many were obliged to accept the ‘cheque-eviction’ of USD 1,200. Thirty-five families are still looking for alternative accommodation; because they are informal vendors they face extreme difficulties in renting a place in the real state market. The building Mercurio, as well as its neighbour building Sao Vito, will be demolished to make way to a parking lot and a square.

c) Edifício Sao Vito - Sé

Neighbouring the Mercurio building sits the 624 apartments of building Sao Vito were expropriated in 2004 in order to be repaired and made suitable for social housing, according to Law n. 13.885/2004. The building is located in a Zone of Social Special Interest, demarcated as such by the municipal master plan. At that time, 510 families vacated the building in order to allow the public works to start. They were then granted a rent subsidy for 30 month to live somewhere else in the meanwhile. In 2007 the rent subsidy contracts expired, with no possibility of renewal. Additionally, the municipality decided to stop the social housing project and interrupted the repairs. The plan now is to demolish the building to make way for a parking lot and a park. The Public Defender then sued the municipality in order to assure the renewal of the rent subsidy contracts, which was achieved in January 2008. However, as the contracts had expired in May 2007, the families suffered all sorts of eviction threats during the year. Many had to vacate the places where they were living under the rent subsidies. The Public Defender also sued the municipality to demand a permanent solution for the families who left with the hope to return after the promised repairs. However, as an affirmative injunction requiring a positive act on the part of the municipally has not ordered by the court, the families are waiting the final judgement of the suit. In the meanwhile, they were offered by the municipality the following ‘alternatives’:

- 164 families received a credit letter from the Municipal Housing Company (CDHU);
- 122 families were granted with an extension of the rent subsidies (in this case, against the will of the Municipality, as they were obliged to do so by a judicial order);
- 45 families were resettled at Vila dos Idosos;
- 45 families have not been offered any alternative housing solution so far.

3. ACCESS TO WATER AND SANITATION

Even though the State’s periodic report shows the expansion of access to safe drinking water and sanitation over the last decade, the water and sanitation deficit is still enormous. The latest official survey shows that there is, solely in the urban environment, an estimation of 30 million people without access to a piped water delivery system and 87 million people without access to a sewerage system.¹⁷ The unsatisfactory access to safe drinking water and sanitation services and facilities affects predominantly the population living in informal settlements, where the

¹⁷ IBGE – Brazilian Institute of Geography and Statistics. National Household Sample Survey (PNAD) 2007. As basis for this estimative, it was used the average of 3.2 inhabitants per household, data contained in the PNAD 2007.

inexistence of a housing title inhibits policy makers from carrying out infrastructural works. It also is related to race inequalities. For instance, the percentage of black people without access to water and sanitation still corresponds to virtually two times the percentage of white people in the same situation.¹⁸ In this sense, it is desirable that policies in the water and sanitation sector in Brazil prioritise vulnerable and marginalized groups such as the abovementioned.

In 2008, the federal government called upon all stakeholders to develop a national sanitation programme, aiming at the implementation of the Water and Sanitation Law (Law n. 11445/2007), and the development of the National Sanitation Plan. Although the mentioned Plan is essential for the adoption of targets and measures for improving access to water and sanitation by vulnerable and marginalized groups, it still depends upon the approval of a Presidential Decree setting up the procedure for its development. It should be noted that the National City Council had recommended that the national plan should have been drafted by December 2008.¹⁹ This Decree is also crucial for regulating aspects of the Law that are still not enforceable. In March 2009, the draft bill was submitted to the National City Council, which has discussed and approved its content. Despite of several consultations and workshops carried out with civil society, federal government has not issued the Decree yet.

COHRE urges the State Party to issue the Decree to regulate the Sanitation Law as expeditiously as possible, so that the participatory process to develop the national water and sanitation plan can be properly impelled.

4. CONTACTS

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¹⁸ IPEA, *Tão perto e tão longe das soluções*. In: Revista Desafios do Desenvolvimento, n. 41. Available at: http://desafios2.ipea.gov.br/003/00301009.jsp?ttCD_CHAVE=4281

¹⁹ Council of the Cities, Resolution of recommendation n. 33 of 1 May 2009.