

Social housing rental in Brazil: The role of local authorities, models, and outcomes in ensuring the fundamental right to adequate housing

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Abstract: The present work aims, through the monographic procedure of reading the works of Rolnik, Maricato and Engels, and through the inductive method, to answer whether and in what way public policies of social rent, in contrast to those whose scope is the granting of real right to popular properties, would ensure a better guarantee of fundamental rights to housing and the city in Brazil. The hypothesis is that the adoption of social rental policies for properties belonging to a public housing stock, managed by local public authorities, are better suited to combating the effects of the housing deficit in Brazil than others focused on granting real estate credit, rights real property and income transfer to be used in the private rental market. This hypothesis is based on a comparative study between the British social rental policy and the “Favela do Gato” development. Through a critical analysis of data and bibliography on the topic, the hypothesis is partially confirmed, since advances and improvements in the current model are still necessary.

Keywords: Social rental. Public policies. Local governments. Social housing. Brazilian Law.

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1 Introduction

The present work deals with the responsibility of local governments in guaranteeing the fundamental right to decent housing through the application of public policies on social rent in Brazil. In view of the reality of Brazilian index of

housing deficit that reaches the serious mark of 5,876,699 households,¹ the search for alternative housing policies to those that have traditionally been created and applied is essential for achieving the goal of mitigating the deleterious consequences that housing shortages force on Brazilian cities, which are demonstrated by an increase in homelessness, in urban crime, unemployment and a major growth of socio-spatial inequalities.

This research focuses on the theme of fundamental rights and is bound to the evaluation of local public housing policies that have social rent as the main instrument to combat housing deficit and that can best guarantee the fundamental rights to housing and to the city under the scope of the Brazilian Federal Constitution of 1988. Therefore, given the presented reality, the research problem is: in what way would public policies of social rent, in contrast to those whose scope is the granting of low-income real estate, ensure a better guarantee of fundamental rights to housing and to the city in Brazil?

To answer this problem, it starts from the central premise that the fundamental rights to the city and its branch, the right to housing, are denied to a large part of the populations that inhabit and help to build Brazilian urban centers. Issues such as the privatization of services and public spaces, growth of slums, the gentrification of popular housing areas, ethno-social segregation, unemployment and underemployment, the horizontalization of the expansion of the urban fabric and real estate speculation make it difficult for the poorest sectors of society to access urban goods and housing, being key factors for the growth of the housing deficit and the consequent urban crisis, with social rent policies, applied by local authorities, a positive alternative to combat the effects of the housing deficit.

In this way, the research is divided into three sections, the first being themed by the origins of the housing deficit in Brazil and the challenges presented as a result of this phenomenon to municipal entities, mainly through the studies of Rolnik, Maricato, Davis and Engels. These authors serve as a theoretical basis for the development of the argument that the housing deficit is a fundamental factor for the growing perception of a state of crisis in Brazilian urbanism, also contributing to the reproduction of substantive socioeconomic inequalities present in Brazil. Although this work makes use of a vast bibliography on the topic, it is not a classic bibliographic review. The focus is on the critical and comparative analysis of public social rental policies, with emphasis on the study of specific cases and their relevance in the Brazilian context.

¹ BRASIL registra *déficit* habitacional de 6 milhões de domicílios: Dados que representam os números do país foram atualizados pela FJP a partir dos dados da PnadC – IBGE de 2022. FJP, [S .I.], 2022. Disponível em: <https://fjp.mg.gov.br/brasil-registra-deficit-habitacional-de-6-milhoes-de-domicilios>.

In the second part of the study, some of the public policies of social rent implemented in Brazil will be addressed, mainly those of local attainment and in their various types and modalities. Social assistance policies linked to temporary emergency situations and housing policies carried out as income transfers for the use in the private rental market will also be addressed.

At last, the result of these local social rent policies will be evaluated and their contribution to the goal of reducing housing deficit rates and, consequently, combating the issues caused by the Brazilian urban crisis. Likewise, in this last part, that possible alternatives will be proposed in order to contribute to diminishing the effects of the housing deficit.

2 The roots of the housing deficit in Brazil: An analysis based on Rolnik's urban theory

The world population in 2020 for the first time in its history will be mostly urban.² The increase in the birth rates of urban inhabitants, as well as diasporic migrations and the continuous process of rural exodus that has been observed since the mid-twentieth century are determining factors for this unprecedented movement to be witnessed.

To emphasize the magnitude of this transformation, for Davis,³ this event will be an unprecedented event in the history of humanity, only comparable to the Neolithic revolution and the industrial revolution. For the first time, the planet's urban population will be larger than the rural population and, according to census projections in developing countries, this transition may have already occurred.

According to data provided by the same author, 95 percent of this urban population increase takes place in developing countries, and in fact, the sum of urban populations in Brazil, India and China is almost equal to that of Europe and North America. In this context,

The explosive cities of the Third World are also weaving extraordinary new networks, corridors and urban hierarchies. In South America, geographers are currently talking about a new monster known as the RSPER (Rio-São Paulo Metropolitan Region), which already includes the medium-sized cities located on the communications axis that connects the 500 kilometers that separate both cities, as well as the extensive industrial region around Campinas.⁴

² DAVIS, Mike. *Planeta de ciudades miseria*. Madrid: Akal, 2014. p. 11.

³ *Ibidem*.

⁴ DAVIS, 2014, p. 15, free translation.

Diving more specifically into this phenomenon and how it develops in Brazil, it currently has the sixth largest housing contingent on the planet, counting, according to World Bank⁵ data, with approximately 203,1 million inhabitants. Of these, 124,1 million, or 61% inhabit urbanized areas,⁶ a phenomenon resulting from an unprecedented steadily populational influx of migrants from rural areas and which has increased dramatically since the 1960s.

In any case, the components of the housing deficit have a significant historical construction that deserves to be considered. Faoro⁷ discusses the subjectivity of these indicators, highlighting that the definition of the housing deficit can vary depending on the criteria adopted. Initially, the deficit only considered the lack of housing in its patrimonial sense, that is, whether a person has a residence permit, in a clear reference to the zeitgeist of the time, in which Brazilian patrimonialism, characterized by the relationship between the concentration of heritage, Economic power and political power dictated social and legal norms.⁸

Over the years, the measurement of the index began to include aspects such as precarious construction, involuntary cohabitation and excessive rental costs. This variation over time reflects a broader and more complex understanding of what constitutes adequate housing, highlighting that the housing deficit should not be seen simply as an absolute number, but rather as a multifaceted phenomenon that demands comprehensive and adaptive public policies.

The urban population growth in Brazil took place in a fast, organic and disorderly way in different historical periods and with well-defined characteristics. The first Brazilian great rural exodus began in 1850 with the advent of the “Lei de Terras”, or Land Law, which ended up removing countless families of rural workers who historically held possession of the lands they worked and lived on and who, often through shady land grabbing processes, had to withdraw from the countryside to the cities. As early as 1888, with the abolition of slave labor in Brazil, millions of ex-enclaved individuals were removed from their former captivity sites due to the substitution for paid labor, this process being carried out in a socially indifferent way on the part of the established political power at that time.

Although these early rural exodus movements did not have the populational impact that would transform Brazilian society into a mostly urban society, they played a fundamental role in the construction of the Brazilian archetype of city, since it is in this period, from the second half of the 19th century onwards, that the first *favelas*, subnormal or illegal occupations, occupations in areas of environmental risk and

⁵ BANCO MUNDIAL. *Brasil: aspectos gerais*. [S. l.]: Banco Mundial, [2022]. Disponível em: <https://www.worldbank.org/pt/country/brazil/overview#1>. Acesso em: 25 abr. 2022.

⁶ IBGE. *Pesquisa nacional por amostra de domicílios – PNAD*. Rio de Janeiro: IBGE, 2022.

⁷ FAORO, Raymundo. *Os donos do poder*. 3. ed. rev. São Paulo: Globo, 2001. p. 18.

⁸ *Ibidem*, p. 823.

the first Brazilian suburbs will emerge and be established in the urban landscape. In spite of the fact that in this period cities were still administrative appendices and the locus of the exercise of political power in a still incipient Brazil, the very Brazilian city model in its origin is still the matrix for the construction and reproduction of urban spaces even today, being a hallmark permanently and indelibly memory of the past in today's cities.

The urban way of life only became predominant in Brazil by the 1960s when, for the first time, the number of city dwellers surpassed the number of those living in rural areas. The increase in the population contingent in Brazilian cities in this period often occurs under the socially indifferent gaze of the political powers that see in the processes of expansion of urban responsibility towards the peripheries, an alien phenomenon to their will and responsibility, thus,

Despite urbanizing only in the 20th century (in 1900, according to the IBGE, only 10% of the Brazilian population lived in cities), Brazil carries, in its urbanization process, characteristics inherited from the ills of its dependent and subordinate relationship, as well as some characteristics of our “social formation”. The legacy of slavery and the loss of prestige of labour, exclusion and the inferior condition of women, patrimonialism and the privatization of the public sphere, personalism and the rejection of impersonal and professional relationships, clientelism and the universalization of the “give-and-take policy” contrary to recognition of rights, the authoritarian tradition denying citizenship, are present in every square meter of the city.⁹

The housing deficit issue, resulting from the rural exodus phenomenon, is the root of problems which are derived from it, such as socio-spatial segregation, slums, urban violence, the increase in poverty, the financialization of housing and urban land, uncontrolled real estate speculation and others that are directly involved with the urban crisis, that only do worsen and becomes chronic.

The 1970s and 1980s, often referred to as the “lost decades”, had a profound impact on urbanization and urban consolidation in Brazil. Maricato¹⁰ describes this period as marked by industrialization and low-wage urbanization, where urban expansion occurred amid a context of growing social inequality and precariousness. Kowarick¹¹ by his turn, highlights the process of dispossession that characterized this era, where the low-income population was pushed to peripheral areas lacking adequate infrastructure, this phenomenon resulting in disorderly urban densification and the

⁹ MARICATO, Ermínia. *O impasse da política urbana no Brasil*. Petrópolis: Vozes, 2017. p. 130-131, free translation.

¹⁰ MARICATO, Ermínia. *Brasil, cidades: alternativas para a crise urbana*. Petrópolis: Vozes, 2021. p. 22.

¹¹ KOWARICK, Lúcio. *A espoliação urbana*. Rio de Janeiro: Paz e Terra, 1979

formation of large slums in industrialized capitals, consolidating an urbanization model that perpetuates social exclusion and inequality.

Although the time periods between 2002 and 2014 were times of progress in terms of increasing public investment in housing and urban infrastructure, as well as in social assistance and income transfer, problems still persist and “the challenges are not few, since it is not just about expanding the infrastructure of cities to absorb future growth: the basis – financial, political and management – of the urbanization process has consolidated an unequal and predatory model”.¹²

Even though this period economic policies have been recognized as a story of relative success in having contributed to poverty reduction, and institutional efforts towards political decentralization have also enjoyed good results in extending the Right to the City as dictated by the “Estatuto da Cidade”,¹³ “the marking of the predatory and discriminatory model of the city continue in full force, constituting what we can call today the urban crisis”.¹⁴ In order to attack one of the pillars of the urban crisis, which is the housing deficit, in addition to seeking an alternative to fully guarantee the fundamental right to housing and the city, the analysis of the housing issue and its constitution in Brazil is deepened.

According to João Pinheiro Foundation (2020), those households classified according to the following parameters are considered to be in housing deficit: (i) improvised, that is, not entirely intended for housing purposes; (ii) rustic or precariously built; (iii) in family cohabitation, which are those dwellings who house different family groups who wish to live separately; (iv) excessive rent burden, or those whose values exceed 30% of family income and (v) excessive density, which means the overuse of rooms (more than three individuals per dwelling) in rented properties.

In this situation, according to data collected in 2022 by the FJP,¹⁵ 6.215.313 households in Brazil are currently in a state of housing deficit, of which there are a further 1.682.654 houses with some structural, land or building inadequacy. Understanding the magnitude of the housing deficit lends itself to the task of

formulation and evaluation of housing policy, especially guiding city governments in specifying housing needs. The objective of the indicator is to guide public agents responsible for housing policy in the construction of programs capable of meeting the demand explained in the estimation of the indicator at the municipal, state and federal levels.¹⁶

¹² ROLNIK, Raquel. *Guerra dos lugares*. São Paulo: Boitempo, 2019. p. 266.

¹³ “City Statute” is the Brazilian Federal Law that regulates the urban planning policies basis.

¹⁴ ROLNIK, *op. cit.*

¹⁵ BRASIL, 2022.

¹⁶ FERNANDES, Karina Macedo; BRAGATO, Fernanda Frizzo. Ocupar e resistir! A luta pela moradia e o Direito à Cidade no contexto da cidade da capital Porto Alegre. *In*: BELLO, Enzo; KELLER, Rene José (org.). *Curso de direito à cidade: teoria e prática*. Rio de Janeiro: Lumen Juris, 2018. p. 214.

Another determining factor for a true state of crisis in the urbanism of emerging capitalism, and included in this context, of Brazil is the illegal nature of state law that peripheral communities acquire, suffering the consequences of this status in almost all aspects of the daily life of its inhabitants. Access to the most basic urban goods such as sanitation, gas, electricity, TV etc., in these places takes place through dangerous interactions with criminal groups, with precarious and dangerous installations and without quality control, since the power of the State, conveniently, only incurs into the favelas through its armed forces, often offering yet another source of danger for its residents.¹⁷

About these spaces, Rolnik¹⁸ recalls the emblematic case of the Rio occupation of Horto, highlighting that

Today, this place [the periphery] is a kind of personification of the “illegal” production of the city. In the words of an engineer from the Mumbai Water Company: “Shivajinagar is an illegal area, not part of the city plan. They occupied illegally and continue to build illegally; moreover, they steal water with illegal connections”. Here are also present the basic elements pointed out in the case of Horto and the struggle of its inhabitants to remain where they are: territories of changing definitions between legal and illegal, built from pressures, political mediations and layers of legalities.

In this sense, it is observed that an increasing portion of the population, not only peripheral, but, from a general point of view, of Brazil and the planet, live in zones of indetermination in the sense of “legal/illegal, planned/unplanned, formal/informal, inside/outside the market, presence/absence of the State”.¹⁹ Living in a situation of housing vulnerability is permeated by risks of all kinds, such as environmental risk, state and criminal violence, food deficit, unemployment, political alienation, health risks, in addition to the social stigma of being a “slum dweller” in a pejorative sense given the floor to the inhabitants of these precarious spaces.²⁰

For this and other reasons, the housing deficit problem must be treated as a priority by the public authorities in Brazil to formulate and evaluate the housing policies promoted in the country, as long as they look at the data with a vision that

¹⁷ CRUZ, Arthur Votto; BIRNFELD, Carlos André Sousa. Pluralismo jurídico nas favelas brasileiras: observações acerca da legitimidade. *Crítica y Resistencias: Revista de Conflictos Sociales Latinoamericanos*, [S. l.], n. 12, p. 69-84, jun.-nov. 2021.

¹⁸ ROLNIK, 2019, p. 173.

¹⁹ *Ibidem*, p. 174.

²⁰ “Periphery” and “favela” are still strong urbanistic and cultural categories. Despite the accumulated investments in these settlements, which often have basic infrastructure and social equipment, they are still marked by precariousness – present in the poor quality of public services, the lack of urban planning, the list of urban artefacts still to be made or obtained – by a Persistent territorial stigma (ROLNIK, 2019, p. 266).

goes beyond a mere analysis of numbers and short-term impacts and results, which are known to be loaded with political-electoral interests. Since the 1960s, a series of political programs for the distribution of housing units have been created in Brazil with varied results with regard to the quality of the distributed housing and the localized impact on the reduction of the housing deficit. Standing out among these programs are the National Housing Bank – BNH, COHAB (Portuguese for Popular Housing Company), CDHU (Portuguese for Housing and Urban Development Company), Minha Casa Minha Vida (Portuguese for “My House, My Life”) and more recently its successor Casa Verde e Amarela (Portuguese for “Yellow and Green House”) of municipal, state and federal competence and operation respectively. Additionally, previous policies based on the Institutos de Aposentadoria e Pensões – IAPs laid important groundwork for subsequent programs. Even though these programs managed to make home ownership possible for a large number of Brazilians, it is possible to assess that the model employed did not manage to cause a significant impact on the reduction of the housing deficit, often, on the contrary, having actively served as an instrument for the production of urban voids of real estate speculation and the production of urban added value.

Of special interest to this work’s subject is the “Minha Casa, Minha Vida” program, the largest popular housing program carried out by the public authorities, and which involved the three entities of the federation in its execution in almost all of the national territory. Instituted by Federal Law No. 11.977/2009, the program

aimed to encourage the construction industry in Brazil and in order to face the international economic crisis that broke out in 2008, to expand the housing market to serve families with an average monthly income of up to R\$ 7 thousand, as well as the land regularization of illegal settlements (this latter objective was revoked from Law 11,977/2009 with the advent of a specific rule, Law 13,465/17).²¹

The results of programs such as “Minha Casa, Minha Vida” are evidently sensitive and with varying levels of success in their proposed objectives, which are to strengthen national industries focused on civil construction, create jobs in the same area, strengthen the real estate market and concession of real estate loans, increase the supply and private stock of housing and seek a reduction in the housing deficit. However, even though these policies have indeed advanced in their objectives listed above, they have not managed to achieve a social transformation that could represent a real change in the state of crisis of Brazilian urbanism and

²¹ CRUZ, Arthur Votto; HERMANY, Ricardo. O direito fundamental à moradia e à cidade no Brasil: as políticas públicas de justiça socioespacial sob a ótica da teoria de justiça de John Rawls. In: GORCZEWSKI, Clóvis (org.). *Direitos humanos e participação política*. Santa Cruz do Sul: EDUNISC, 2021. v. XII, p. 546.

effectively and permanently front the housing deficit without placing it under siege by speculation real estate the beneficiaries of the programs.

The public housing policy model adopted in Brazil since its inception, focused on facilitating the granting of real property rights by low-income people, leads in the medium and long term to an offer of public infrastructure and low-cost real estate to agents of real estate speculation, in addition to creating indebtedness for beneficiaries less able to fulfill their obligations and the even greater exclusion of those who do not even fit into the lowest bracket of the program. According to Rolnik,²²

This developmental and socially perverse model resulted in the consolidation of one of the most unequal societies in the world, in which the majority of the population does not have basic needs, such as housing, met. In fact, the lack of affordable housing has become one of the main social problems in the country, in a context of vertiginously rapid urbanization.

This phenomenon is confirmed from an observation that Brazil has never experienced, in terms of social policies and, consequently in its standards of social housing policies, a stage of social well-being, different from European countries, having already started from a neoliberal model that, in the global north, took place after the consolidation of a social state.²³ Brazil, like other South American counterparts, was subjected to a vastly neoliberal political and economic program from the 1980s onwards, which established, above all, that the housing problem should be solved exclusively by the market. In the words of Chile's Minister of Housing and Urbanism in 1983, "housing is an economic factor that materializes in monetary quantities to enable a social element that is expressed in square meters of built area".²⁴

For this reason, it is necessary to seek a housing policy model that differs from the prevailing and majority model in Brazil, clearly aimed at the private housing market; one whose scope is the guarantee of the social right to decent and permanent housing to a much broader portion of beneficiaries. The model that comes closest to this ideal chosen to be analyzed in this work is that of social rent, which is why, in the next section, its manifestations in Brazil, its operation and its practical effects will be studied in order to reduce the housing deficit. However, it is important to note that in some cases, the cost of social rent may be higher than the installments of the MCMV-FAR, indicating a need for careful consideration of affordability, which is not the scope of this study.

²² ROLNIK, 2019, p. 267.

²³ *Ibidem*, p. 266.

²⁴ SUGRANYES, Ana. La política habitacional en Chile, 1980-2000: un éxito liberal para dar techo a los pobres. In: RODRÍGUEZ, Alfredo; SUGRANYES, Ana (org.). *Los con techo: un desafío para la política de vivienda social*. Santiago: SUR, 2005.

3 Social rental public policies: The role of local authorities in their application

Social rent took as a public policy model for popular housing became predominant in the post-World War II period, mainly in the United Kingdom, the United States and the Netherlands. These and other countries began to adopt social welfare institutions in order to guarantee to their inhabitants some standards of living compatible with those offered by socialist states, very much as a way of barring the advance of this ideology in their spheres of influence.

In the case of the United Kingdom, there was the issue of the need to rebuild housing that was destroyed during the bombing of British cities by the air force of Nazi Germany, which further aggravated an already important problem of housing deficit that had grown since the 19th century. The reconstruction effort was carried out through partnerships between the government, which massively funded the project, and the private sector, which donated plots of land in exchange for tax benefits and construction rate concessions.

From 1948 onwards, with the enactment of the National Assistance Act – which presented a series of guidelines for combating poverty and formed the basis of British assistance and social security policies – social housing became a priority for the public authorities. In this context, local authorities were ordered to build new housing units to serve as housing for displaced people, having built more than one million homes.²⁵

Half of that amount was for council housing, which consisted of public housing complexes, built by the municipalities that owned the properties. These council housing were occupied by people with a housing shortage who could not find decent housing in the private real estate market, who in turn paid a rent well below market value and had the right to live in the house owned by the municipality of safe and permanent way. According to Raquel Rolnik:²⁶

Between the mid-1940s and the late 1970s, council housing was the main provider of housing for middle- and lower-income working-class families. In some regions, public housing projects have acted as a kind of social equalizer, ensuring that neighborhoods become income-diversified, even in “high-value” core urban areas. This was possible thanks to the use of public lands to provide social housing, especially in the post-war period. On the other hand, large complexes were implanted in peripheral areas and not all public parks had high quality.

²⁵ ROLNIK, 2019, p. 43-44.

²⁶ *Ibidem*, p. 44.

At first, council housing was administered and managed by the municipalities themselves, which collected rents and reinvested directly in the program and, later, from the 1970s and 1980s, the administration of the public housing stock began to be carried out by NGOs, philanthropic associations, residents themselves and other social landlords, who “have received public funds to cover the portion of the capital costs of their housing activities not covered by the amounts collected from rents”.²⁷

Also, about council housing:

By 1981 the combination of council owned and housing association-owned stock amounted to about half the Inner London total and about 30 percent of Outer London units (Hammett, 2003, figures 6.1 and 6.2). (...) Together Inner and Outer London formed the jurisdiction of the Greater London Council and its successor, the Greater London Authority²⁸.

Thus, the magnitude and importance of the social rental housing policy carried out by the British government and whose administration was given almost exclusively at the local level by its analogues to municipalities is verified. This model, however, underwent a radical transformation from the second half of the 1980s onwards, when the economic ideology of neoliberalism began to dominate the issue of public policy in the United Kingdom, at which time public investment for the council housing program was drastically reduced and that a large part of the public stock of municipal housing was offered to the private market, despite respecting the preemptive right of acquisition by former tenants.²⁹

The big issue that arises from the privatization of the public housing stock in countries that, in addition to the United Kingdom, maintained similar programs, is that the beneficiary population now has title to the housing they occupied and can now freely dispose of that asset in the private real estate market. It turns out that the economic forces of real estate speculation, interested in this new market dominated by low- and middle-income landlords, began to harass new landlords with purchase offers below market value, but which in the short term would be interesting for a portion of poor people, unemployed, elderly, in short, people in need.

By selling their properties, the then beneficiaries had to return to the private rental market, which offers housing at prices much higher than those of the state rent program. In practice, housing guaranteed by council housing ensured secure and permanent possession of the property, since, as it was public property, it was not subject to harassment from elements that saw housing as a commodity, yet

²⁷ ROLNIK, 2019, p. 45.

²⁸ FAINSTEIN, Susan. *The Just City*. Ithaca: Cornell University Press, 2010. p. 144.

²⁹ *Ibidem*, p. 115.

another object subject to financialization, being, therefore, a real guarantee of the right to housing in its strict sense, dissociating itself from the meaning and the need to grant one's own property.

In the Brazilian case, nothing similar to the cases already mentioned of social renting was attempted on a large scale, with the scope of the main housing programs conducted so far being the facilitation of home-ownership through incentives and subsidies operated through the real estate market and credit, as soon as

Today, the dissent based on contemporary capitalism goes beyond this dispute over places, aggravated by the Brazilian scenario that places the house as a financial asset (by subsidy or microfinance) to enter the global financial economic circuit, fed by the machinery of private property and the internationalized massification of the house.³⁰

Likewise, many Brazilian governments did not bother to establish a public housing stock that could be used as social housing in order to mitigate the effects of the housing deficit. The public housing policies historically constituted in Brazil, whose scope invariably leads to the granting of real estate credit and the real right to a new property that requires the relocation of residents to orderly housing complexes, walled and far from the center and from the eyes and interaction of the higher classes wealthy, have already shown, in the course of fifty years, that they don't solve the problems they seek to fix.

It is imperative to point out alternatives to this autopoietic system which, like Ouroboros devouring its own tail to satisfy hunger, seeks to fight the housing deficit using the same system that reproduces it. In this way, "financialization policies served much more to expand the financial markets themselves than to actually increase access to housing for the poorest and most vulnerable".³¹

This is an old lesson, which Friedrich Engels had already taken care to discuss in the 19th century when he insisted that

[they] live in an imaginary world (...) by imagining that the landowner would have "reached the highest level of economic independence", that he would have "safe shelter", that he would "become a capitalist" and would be insured against the dangers of unemployment or disability for the real credit to which he would have access as a result" etc. I wanted (...) to take a look at French small farmers and our Rhenish small farmers; their houses (...) are completely encumbered with mortgages, the harvest belongs to the creditors (...) and it is not they who command and rule sovereignly in their "territory", but the usurer,

³⁰ NASCIMENTO, Denise Morado. As políticas habitacionais e as ocupações urbanas: dissenso na cidade. *Cad. Metrop.*, São Paulo, v. 18, n. 35, p. 147, abr. 2016.

³¹ ROLNIK, 2019, p. 84.

the lawyer and the bailiff. This is indeed the highest imaginable level of economic independence – for the usurer!³²

In any case, this does not mean that assistance policies focused on renting did not emerge in Brazil at all, having specific importance in reducing damages resulting from housing risk. Social rent as a public policy in Brazil, in general terms, has a much more temporary character of social assistance in which the main objective is the transfer of income or subsidies for low-income people affected by specific situations of housing risk, such as disasters natural, for example.

The Law No. 8.742 of 1993, called, in Portuguese, the Organic Law of Social Assistance – LOAS, establishes the guidelines, competences and prerogatives of state actors in the provision of assistance benefits in order to guarantee minimum existential goods to needy citizens, among them, of more specific interest of this study, the Eventual Benefits. These Eventual Benefits, in turn, are regulated by Decree No. 6,307 of 2007, which establishes in its art. 7 that the lack of a home due to temporary vulnerability must be met by social assistance in the following terms:

Art. 7 The situation of temporary vulnerability is characterized by the advent of risks, losses and damages to personal and family integrity, understood as follows:

(...)

Sole paragraph: Risks, losses and damages may arise:

I - the lack of:

(...)

c) domicile;

II - the situation of abandonment or the impossibility of guaranteeing shelter for the children;

III - the circumstantial loss resulting from the rupture of family ties, the presence of physical or psychological violence in the family or life-threatening situations;

IV - disasters and public calamities;

V - other social situations that compromise survival.

Thus, it appears that only the circumstantial risk of eviction gives rise to the possible right to social rent, and this type of benefit cannot be confused with a housing policy in which the benefit would be granted definitively. Municipalities are responsible for regulating and instituting their social rent benefits on a temporary

³² ENGELS, Friedrich. *Sobre a questão da moradia*. São Paulo: Boitempo, 2015. p. 76.

basis, financed through their own municipal budget and transfers to the Single Social Assistance System, the SUAS (Brazilian program of “Unified Social Assistance System”).

In Brazil, there is a clear distinction between social rent and social leasing. Social rent is treated as necessary assistance defined in the Organic Social Assistance Law – LOAS for the purpose of subsidizing risk situations, such as natural disasters. On the other hand, social leasing is a housing policy program that aims to provide long-term housing for low-income families, with the aim of combating the housing deficit. Examples of this type of social rental assistance benefit can be identified in the following laws: Decree No. 18.576/2014 of Porto Alegre, RS, in Decree No. 44.637/2018 of Rio de Janeiro – RJ, in Law No. 14.214 of Juiz de Fora, MG, in Municipal Law No. 12.015/2010 of João Pessoa – PB, among other municipal legal devices that, according to their local particularities, establish their emergency social lease programs. In general, city halls, represented by their housing secretariats or similar ones, pass on a pecuniary amount so that families affected by the loss of their homes can use it in the private rental market for a specified period of time.

As an example of the impact of this type of policy, the State Secretariat for Social Assistance and Human Rights of Rio de Janeiro states that in 2015, more than 12 thousand families from all over the State of Rio de Janeiro received the social rent from SEASDH. In this way, “just over 30% of the beneficiaries, from six cities, receive R\$500. More than 8,300 families, however, have to make do with R\$400, including all those contemplated in the capital of Rio de Janeiro”, this in a scenario of positive variation in the price of rents of up to 112.3% in the same year of the survey.³³

Although assistance benefits can guarantee the right to housing for those who are at risk for housing, this is done in a precarious, temporary way and without concern for the quality of housing, since the subsidized amount is often not capable of to cover the entire rent, causing beneficiaries to seriously compromise their income in addition to looking for properties that are still at environmental and social risk. This “Brazilian style” type of social rental, although important in its purpose of urgently welcoming families and individuals at risk, cannot be considered in any way as a relevant tool for combating the effects of the housing deficit.

However, it is essential to recognize that Brazil has implemented other public housing policies aimed at social renting. The IAP, the Programa de Arrendamento Residencial – PAR, which operates similarly to a leasing program with the option of ownership after 15 years, and initiatives such as Parque do Gato, Olarias, and Vila

³³ MAIS de 12 mil famílias recebem aluguel social no RJ. Valor é suficiente? *UOL notícias*, [S. l.], 19 abr. 2019. Disponível em: <https://noticias.uol.com.br/cotidiano/ultimas-noticias/2015/04/19/mais-de-12-mil-familias-recebem-aluguel-social-no-rj-o-valor-e-suficiente.htm?cmpid=copiaecola>. Acesso em: 4 maio 2022.

dos Idosos in São Paulo are notable examples. Additionally, the Aproxima program under Casa Verde Amarela and the new MCMV social rental initiatives through Public-Private Partnerships – PPPs reflect ongoing efforts to address the housing deficit through social rental housing.

Other similar models of social rent are carried out by city halls with greater budgetary autonomy, and which implement income transfer benefits intended for the payment of rent without the need for an emergency nature or the requirement of a calamity for its concession. In this context, the “Auxílio Aluguel”, a program of the municipality of São Paulo established by Decree nº 51,653 of 2010, which extends the list of beneficiaries to families with monthly income of up to R\$ 2,400.00, when composed of up to four members, or per capita monthly income limited to R\$ 500.00, in the case of families with five or more members and who have been removed from their homes due to prefecture works or in partnership with the municipality.

It so happens that, according to the Fipe-Zap index, created in 2008, there was a 200% increase in property prices and rents in São Paulo in the period between 2008 and 2014. accompanied this increase, resulting in an excessive expenditure on housing and an even greater concentration of income under the power of urban landlords and agents of real estate speculation.³⁴

In this way, it can be seen that the social rental programs, which are predominant in Brazil today, although they do not really intend to achieve this objective, are not capable of mitigating the problems of the housing deficit and, in many times, contributing in a collateral form for the perpetuation of this deficit. It is for this reason that it is necessary to reflect on the possibility of envisioning public housing policies in Brazil whose scope is the guarantee of the right to housing through safe possession, for an indefinite period and of quality through social rent, but which is equally immune to the dynamics of the real estate market and whose immunity is ensured by the local government.

It is with this task, of thinking about social rental models capable of combating the housing deficit and its consequences, that the next section of this work deals with.

4 A possible social rental in Brazil: Results and reflections for the future

The challenge of thinking about a housing policy based on the concept of social rent in Brazil is quite big, since the model is, with exceptions, which will be discussed below, still incipient and not representing a priority in the institutional political scenario. The Brazilian State still does not have the public stock of housing

³⁴ ROLNIK, 2019, p. 278-279.

necessary to put a project in this direction into practice, and it also lacks the administrative structure to effectively meet the demands that this model of social housing imposes.

The adoption in Brazil of a model analogous to the European and North American ones, as already presented in this work, although it appears, in the first analysis, a tempting idea, does not prove to be a viable option, since there are mismatches in the origin of the problems to be addressed, as well as the institutional and budget structure for its implementation are radically different in the Brazilian context and in the countries of the global north. Since the beginning of its housing policies, Brazil has adopted a privatist position focused on home ownership, one of the reasons which was clarified by the first president of the National Housing Bank – BNH, Cavalcanti:

(...) home ownership turns the worker into a conservative who defends the right to property". She expressed concern (...) that the housing policy based on home ownership was an instrument to front communist and progressive ideas in the country, in the middle of the Cold War.³⁵

This mentality is rooted in the Brazilian political tradition and underpins housing policies by reinforcing a three-dimensional system for formulating these public policies. The first dimension is (i) politics, which focuses on the country's budgetary and fiscal strategies; the (ii) ideological dimension focused on the idea that the housing deficit corresponds to a repressed demand for own houses to be built and finally the third dimension, (iii) the promotion of sectors of the civil construction industry and the financial sector.³⁶

Breaking with this system means inaugurating a new way of thinking about housing policy in Brazil, which represents a considerable effort, demanding not only the manifestation of a disruptive political will, but also a change in the prevailing general culture that mostly discusses the solution to the problem of the housing deficit from the exclusive point of view of the construction of new units of own homes. Despite the effort being quite large, it is not true that there are no attempts that, with some success, have managed to distance themselves from the imposed reality and approach a model of social housing focused on social rent as a housing policy and not just assistance.

This is the case of the Parque do Gato, housing complex in São Paulo – SP, which was born through the use by the municipal government of idle public land that arose as a result of the construction of avenues alongside the rivers that cross the

³⁵ ROLNIK, 2019, p. 282.

³⁶ *Ibidem*.

capital of São Paulo, more precisely around the neighborhood of Bom Retiro. In the target area of the housing program in question, from the 1990s onwards, several families were settling in a narrow strip of land between the bank of the Tamanduateí River and the walls of some sports fields in the floodplain and old shed of the samba school, constituting around 350 stilt houses at double environmental risk, since they were at the mercy of floods due to the rise in the river level, as well as being built on a gas pipeline.³⁷

The occupied territory and its surroundings were then allocated in 2003 for the construction of a housing complex that would be the object of a new social housing policy called Social Lease. In this program:

Residents would pay a symbolic amount associated with family income, whose assumption was the provisional nature related to the possible improvement in the living conditions of these families - as their living conditions improved, they would move to permanent housing, opening up a vacancy for the lease of other more vulnerable families.³⁸

The construction of Parque do Gato has 594 housing units that “were arranged through 18 laminar buildings, implanted perpendicularly to the strip of land limited by the marginal roads of the road complex. Complementing these residential uses, a day care center, open courts and a playground will also be built”.³⁹ Therefore, a recycling plant for discarded materials was built in annex to the housing park, which could serve as a workplace for the beneficiary residents, many of them recyclable collectors of recyclables who inhabited the favela that previously existed in the area.

The beneficiaries of the housing program should pay a modest rent, associated with the family income, which should be temporary, housing and staying in the park being a possible improvement in the living conditions of these “families – to the extent that their conditions of life improve they would move to a permanent home”.⁴⁰

This project, created by Resolution nº 23 of the Council of the Municipal Housing Fund, was the most important whose scope lay in social rent, in which the main objective, under the terms of the Resolution itself, was

enlarge the forms of access to housing for the low-income population who are unable to participate in financing programs for the acquisition

³⁷ BERNARDINI, Sidney Piochi; VENTINUCCIO, Renata Ungaro. Territórios cindidos: o bairro Bom Retiro e o conjunto habitacional Parque do Gato em São Paulo. *PARC Pesq. em Arquit. e Constr.*, Campinas, v. 6, n. 3, p. 176, set. 2015.

³⁸ *Ibidem.*

³⁹ *Ibidem.*

⁴⁰ KÖHARA, Luiz; COMARU, Francisco; FERRO, Maria Carolina. Locação social como alternativa ao problema da habitação popular na região central de São Paulo. In: GARCÍA, Ariel et al. (org.). *Espacio y poder en las políticas de desarrollo del siglo XXI*. Ciudad autónoma de Buenos Aires: Ariel Oscar García, 2014. p. 282.

of real estate or who, due to their characteristics, are not interested in the acquisition, through the offer in social leasing of housing units already built.

The program was successful in its objectives, with approximately 486 families being served and with their right to housing guaranteed, having even served as an example for the expansion of the Social Lease model to two other complexes: Olarias, serving 137 families and Vila dos Idosos, 145. However, over time, problems such as the illegal sale of housing units, the lack of control by the government over the social situation of some beneficiary families, the high cost of building and maintaining the units and vandalism were identified and reputed difficult to be solved by municipal administrators.^{41 42}

Another important issue to take into account when considering social leasing as a public housing policy in Brazil is the use of idle properties that do not fulfill their social function in accordance with constitutional dictates, the “Estatuto da Cidade” and the Urban Master Plans. An advantage of this type of housing policy is the possibility of using properties that do not comply with their social function for the purpose of social housing, mainly those located in central areas of cities with access to jobs and culture, education and leisure centers, avoiding thus the need to build new housing complexes that can further expand the urban fabric towards its peripheries.

A recent example of a policy that essentially seeks this goal is the popular decision, through a referendum, to indicate that the Berliner local government acquires 225,000 properties currently owned by large real estate holding companies and allocate them to popular rental projects with low-cost housing in order to combat the excessive increase in rent values in the German capital, a housing modality for 82.6% of Berliners.⁴³ In Portugal,⁴⁴ on September 30, 2021, the regulation of the Basic Housing Law was approved, which identifies the competences of each entity in the allocation of housing within the scope of protection and follow-up in evictions, as well as the situations in which the various spheres of the State may exercise preemptive rights in housing properties, increasing the public housing supply.

In this way, reinforcing the social function of urban property adopted in this country, municipalities are given the possibility, within the scope of the classification

⁴¹ BERNARDINI; VENTINUCCIO, 2015, p. 176.

⁴² D’OTTAVIANO, Camila. Política habitacional no Brasil e programa de locação social paulistano. *Caderno CRH*, Salvador, v. 27, n. 71, p. 263, maio/ago. 2014.

⁴³ A CONSTANTE luta de Berlim por aluguéis mais baratos. *BBC*, [S. l.], 2021. Disponível em: <https://www.bbc.com/portuguese/internacional-58728481>. Acesso em: 26 abr. 2022.

⁴⁴ APROVADA regulamentação de aspetos centrais da Lei de Bases da Habitação. *República Portuguesa*, Lisboa, 30 set. 2021. Disponível em: <https://www.portugal.gov.pt/pt/gc22/comunicacao/noticia?i=governo-aprova-regulamentacao-de-aspetos-centrais-da-lei-de-bases-da-habitacao>. Acesso em: 10 abr. 2022.

of properties as vacant, to be able to present a lease proposal to the owner, for subsequent subletting, or determine the execution of works, under the terms of the RJUE (Legal Regime for Urbanization and Building, in Portuguese), whenever necessary.⁴⁵

In Brazil, the effort to use, in social rental programs, empty properties or those in breach of their social function, involves more complex political and legal issues that make the process more difficult. The municipal public entity that wishes to acquire empty properties and destine them to the use of housing in social lease must submit the acquisition of the property to the approval of the legislative power (according to the commandments in its Organic Law), prior assessment in accordance with Federal Law No. 8.666/93, article 24, X and due bidding process (CF/88, Art. 37, XXI and Federal Law No. 8.666/93).

If, on the other hand, the municipal management wishes to use properties in breach of their social function, it must respect the process of subdivision, building or compulsory use, set out in art. 5 of the City Statute, and the imposition of the progressive property tax over time, in accordance with art. 7 of the same statute. Only after carrying out these administrative procedures will the municipality be able to initiate the sanction expropriation process as provided for in art. 8 of the City Statute, which provides for expropriation through the payment of compensation to the expropriated owner through the issuance of public debt securities subject to prior approval by the National Senate, which has not occurred for more than 20 years, since the Senate, when editing Resolution No. 43/2001 prohibited states and municipalities from doing so.

In this way, it is evident that it is possible to guarantee the right to housing through social rent programs in Brazil, with examples of cases of relative success such as the reality of Parque do Gato in the city of São Paulo, SP brought by this work. However, the means for implementing such policies are still hampered by a political and legislative tradition that invariably prioritizes the private model of housing policy, as well as by an overprotection of private property, even if in breach of its social function.

The advantages of the social lease model have already been described so that the right to housing is guaranteed in a safe, prolonged way, without compromising the livelihood of the beneficiary families and capable of integrating excluded social classes to the city centers. Social rent is also related to the guidelines of an egalitarian city, as Susan Fainstein⁴⁶ suggests in her list:

⁴⁵ APROVADA (...), 2021.

⁴⁶ FAINSTEIN, 2010, p. 172.

In furtherance of equality:

i) All new housing developments should provide units for households with incomes below the median, either on-site or elsewhere, with the goal of providing a decent home and suitable living environment for everyone. (One of the most vexing issues in relation to housing, however, is the extent to which tenant selection should limit access to people likely to be good neighbors. It is one of the areas where the criteria of equality and democracy are at odds with each other, and no general rule can apply.)

ii) Housing units developed to be affordable should remain in perpetuity in the affordable housing pool or be subject to one-for-one replacement.

(...)

vii) Planners should take an active role in deliberative settings in pressing for egalitarian solutions and blocking ones that disproportionately benefit the already well-off.

The democratic and participative form of administration by residents' associations of social leased housing projects is also fundamental for the problems perceived by the programs to be monitored and fought, which is why the British example of council housing, and its housing associations are a model to be followed by future similar policies in the Brazilian context. Based on the lessons learned and experienced in other countries, as well as with national attempts to establish housing programs focused on social renting, it is possible to think about building a way to guarantee the full right to housing in a fairer and socially concerned, avoiding the idiosyncrasies of a system that aims to keep the housing issue under a marketing perspective.

In this way, it is understood that there are alternatives to the public policies carried out up to the present moment in Brazil that are effectively capable of combating the effects of the growing housing deficit, seeking to guarantee the fundamental right to housing, as well as, through the fulfillment of specific planning requirements, guarantee access and the right to the city to those who build it and are denied it. It is essential for this, however, to break with the neoliberal and market logic of transforming places, territories, public and cultural spaces, in addition to rights, into commodities, into goods endowed merely with exchange value and to adopt a vision aimed at guaranteeing the fundamental rights recognized by CF/88.

5 Conclusion

The present study aimed to analyze social rent programs in Brazil, the role of local authorities in their conception, administration and operation and what are the results of these policies in the task of combating the housing deficit. The research problem, directly related to the theme, was how the problems caused by the housing deficit that appears in Brazil and affects millions of families can be

fought and minimized and how the right to housing, constitutionally guaranteed, can be ensured through housing policies social rent.

In order to answer the research's central question, first, it was sought to understand the historical, social, political and economic processes of the housing deficit phenomenon in Brazil. The works of Rolnik, Maricato and Davies were used as bibliographic sources, which contributed to the notion that the housing deficit in Brazil and its consequent problems are due to the combination of a historical process of urban population growth, that began in the second half of the 19th century, and which culminated in the 1960s, and a housing shortage caused by market forces in order to feedback real estate speculation from a financialization of the right to housing.

In the second section of the work, the first experiences of housing policies aimed at social rent were analyzed, with greater emphasis on the British model of council housing, a product of the predominant welfare state in post-World War II Europe and the social rent policies linked to the national program of social assistance in Brazil from the 1993 Organic Law of Social Assistance and its ramifications in local legislation. A clear parallel was drawn between the two models of social rent, the British one, aimed at granting permanent possession of a house by paying a rent below the market value to the local government, owner of the property; the second, Brazilian, of a temporary nature, represents an income transfer assistance policy, to be used in the private rental market, for families at housing risk as a result of environmental disasters or involuntary evictions.

Finally, in the last part of the research, models of public housing policies existing in Brazil were studied, which are premised on the formation of a public housing stock for the social leasing of beneficiaries in a situation of housing deficit, managed by the local government and that would guarantee the prolonged and secure tenure of the dwelling. The Parque do Gato housing program in São Paulo - SP stands out, which, to a certain extent, meets these requirements, having demonstrated in its results that, even with specific problems, it can serve as an example for similar models of local public housing policies that guarantee, in fact, the right to housing and not just the right to precarious ownership of urban land.

In this way, the hypothesis that public policies for social housing, whose scope is the leasing of properties from the public housing stock, can indeed be a solution to the task of combating the effects of the housing deficit and the inequalities and injustices that are related to its direct consequences. Thus, the research problem presented turns out to be answered positively, thus achieving the main objective of this work.

Locação social no Brasil: o papel do poder local, modelos e resultados para a garantia do direito fundamental à moradia digna

Resumo: O presente trabalho objetiva, por meio do procedimento monográfico da leitura das obras de Rolnik, Maricato e Engels, e através do método indutivo, responder se e de que maneira as políticas públicas de aluguel social, em contraste com aquelas cujo escopo é a concessão do direito real de

imóveis populares, assegurariam uma melhor garantia dos direitos fundamentais à moradia e à cidade no Brasil. A hipótese é que a adoção de políticas de locação social de imóveis pertencentes a um estoque público de moradias, administrado pelo poder público local, é a mais indicada ao combate dos efeitos do déficit habitacional no Brasil do que outras focadas na concessão de crédito imobiliário, direitos reais de propriedade e transferência de renda a ser utilizada no mercado privado de aluguel. Essa hipótese se baseia em um estudo comparativo entre a política de locação social britânica e o empreendimento da Favela do Gato. Através de uma análise crítica de dados e da bibliografia sobre o tema, a hipótese se confirma de forma parcial, uma vez que avanços e melhorias no atual modelo são ainda necessários.

Palavras-chave: Aluguel social. Políticas públicas. Governos locais. Habitação social. Legislação brasileira.

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