

Integrating the Poor

Urban Upgrading and Land Tenure Regularisation in the City of São Paulo

The Cities Alliance, in the context of its activities as a learning alliance, thought it useful to record the process and outcome of its collaboration with the City of São Paulo from 2001 to 2004. In this period, the São Paulo Municipal Administration took important steps towards scaling up slum upgrading and land tenure regularisation, as part of a socially inclusive and pro-poor housing and urban development policy.

As a result of this work, the Geneva-based Centre on Housing Rights and Evictions (COHRE) gave its 2004 Housing Rights Protector Award, presented annually to a government or other institution demonstrating an exceptional commitment to the protection and fulfilment of housing rights, to the Municipality of São Paulo, for its innovative *Bairro Legal* Programme, an initiative providing security of tenure and improved living conditions for informal settlement residents.

The context, conceptual basis and outcomes of the Cities Alliance technical assistance to São Paulo's *Bairro Legal* Programme, as well as the achievements and challenges still to be overcome by the city's housing and urban development policy, are described in this volume, which is being published simultaneously in Portuguese and English.

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ANAMACO	National Association of Construction Material Retailers
APROV	Building Approval Department
BNH	National Housing Bank
CAIEPS	Integrated Analyses Committee for Building and Land Subdivision
CAIXA	Federal Savings and Loan Bank
CASE	Sectoral Cadastre Department
CDHU	State Housing and Urban Development Company
CDRU	Concession for the Real Rights of Use
CMH	Municipal Housing Council
COHAB	Metropolitan Housing Company (Municipality of São Paulo)
CREA – SP	Federal Engineering, Architecture and Agronomic Council
DSI	Decree of Social Interest
EMURB	Municipal Urban Development Company
FGTS	Workers Severance Fund
FMH	Municipal Housing Fund of São Paulo
FUNAPS	Municipal Fund for Attending Residents of Substandard Housing
FUNDURB	Urban Development Fund
GRAPROHAB	Housing Project Approval Group
HABI	Social Housing Superintendence of São Paulo Municipal Housing and Urban Development Department
IBGE	Brazilian Institute of Statistics and Geography
ICMS	State Sales Tax
IDB	Inter-American Development Bank
IPEA	Institute of Applied Economic Research
LABHAB FAUUSP	Housing and Human Settlement Laboratory of the University of São Paulo’s Architecture and City Planning School
LRF	Fiscal Responsibility Law
MP	Provisional Measure
NGO	Non-governmental organisation
OAB/ SP	Brazilian Bar Association – São Paulo Chapter
PARSOLO	Land Subdivision and Urban Investment Department
PDE	Municipal Strategic Development Plan
PDR	Regional Strategic Development Plan
PÓLIS	Institute of Studies, Formation and Consultation in Social Policy
PPB	Brazilian Progressive Party
PROVER	Favela Verticalisation Programme
PT	Workers Party
RESOLO	Department for Land Subdivision Regularisation
RMSP	São Paulo Metropolitan Region
SEHAB	São Paulo Municipal Housing and Urban Development Department
SEMPLA	São Paulo Municipal Planning Department
SFH	Housing Finance System
TA	Technical Assistance
ZEIS	Zones of Special Social Interest

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Throughout the developing world, poor human settlements in urban areas face a common difficulty: the failure of public policy and, very often, the absence of the state, characterised by a lack of social facilities and services, including public security programmes. Responses on how to address such issues vary from country to country and even city to city, determined by a range of variables including political will, governments' administrative structure, the legal framework, and the level of community involvement. In many developing cities, the need for a comprehensive urban development policy is pressing, particularly one that focuses on low-income groups and addresses urban poverty in a multidisciplinary and participatory context. A better understanding of the city of São Paulo's experience in the development of such policy may contribute to the dissemination of similar initiatives worldwide.

In 2001, the Housing and Urban Development Department (SEHAB) of the then newly-elected São Paulo Municipal Administration launched the *Bairro Legal* ("Nice Neighbourhood") Programme with the aim of turning slum areas into neighbourhoods, through a combination of physical upgrading, land tenure regularisation and social inclusion¹.

The Cities Alliance provided technical and financial support for the design and consolidation of the *Bairro Legal* Programme in the context of a comprehensive policy involving land tenure regularisation and the systematic integration of precarious settlements into the city. In this document, we examine relevant policies and actions developed by the São Paulo Municipal Administration through the programme and point to the challenges yet to be overcome.

One line of action to be highlighted refers to land tenure security for families living in precarious settlements, which involved a threefold approach. The first is establishing a negotiation process to avoid eviction of families living in illegal settlements. The conflict mediation strategy adopted by the current Administration successfully prevented the eviction of approximately 13,000 such families. Secondly, recent legislation paved the way for the land tenure regularisation of some 160 slums occupying public land, to the benefit of some 45,000 families. And thirdly, this same legislation includes the regularisation of the illegal land subdivisions in existence prior to April 2000.

Cities Alliance assistance to the *Bairro Legal* Programme was also designed to produce integrated local development plans in three districts of the city populated largely by low-income people who face physical, social and economic exclusion. Through the *Bairro Legal* Technical Assistance Project, which was financed by the Cities Alliance and executed in partnership with the World Bank, SEHAB developed a methodology to prepare local development strategies, known as Housing and Urban Action Plans. The effort included development of the plans plus methodology and institutional capacity for their implementation.

In order to support its land regularisation and housing production programmes, SEHAB has undergone a modernisation process, adopting a new organisational model in an attempt to offer more efficient and transparent services. SEHAB's modernisation process, ranging from new information technology systems to technical capacity building, was one of the pillars of the housing policy developed by the current Administration.

The first chapter of this book describes the current Administration's visionary commitment to establish a new urban development model for the city. It begins with a brief overview of the city's current pattern of development, characterised by "peripheral growth", a phenomenon wherein the greater a district's distance from the city centre, the higher its levels of poverty and social exclusion. The chapter also covers housing policies implemented in the 1990s, prior to the current Administration, which, due to their fragmentation and lack of continuity, failed to reverse the city's pattern of peripheral growth. This chapter also describes SEHAB's organisation, instruments, funding sources and main policies, discussing the organisation's restructuring in the context of its support for these policies.

The second chapter describes the *Bairro Legal* Programme's experience with implementation of measures to prevent eviction and guarantee the security of land tenure to low-income families living in illegally occupied land settlements. In order to clarify the challenges faced in this respect, we present a brief overview of housing and land ownership patterns in the city of São Paulo.

The third chapter discusses the *Bairro Legal* Technical Assistance Project, implemented with the technical and financial support of the Cities Alliance. This chapter aims to explain the comprehensive and multidisciplinary approach adopted by the *Bairro Legal* Programme, which encompasses several aspects of urban upgrading, land tenure regularisation and social inclusion. Furthermore, this section examines the programme's inter-institutional nature, as it engages several municipal departments, state and federal agencies, stakeholders in the private sector, and civil society in the debate over the upgrading and regularising of precarious settlements. This approach replaces the traditionally fragmented treatment given to urban upgrading programmes, not only in São Paulo but also in several urban centres of the developing world.

The fourth and final chapter of this document addresses the challenges to be overcome by the *Bairro Legal* Programme and SEHAB in order to expand urbanisation and land tenure regularisation interventions in informal settlements to a citywide scale. In spite of the challenges it still faces, the experience gained by the *Bairro Legal* Programme is already significant enough to warrant its dissemination to Brazilian and international institutions and practitioners involved with slum upgrading and land tenure regularisation who are tackling the physical, social and cultural isolation faced by a significant portion of city dwellers in developing countries.

¹ The Cities Without Slums action plan, developed by the Cities Alliance and launched by Nelson Mandela in 1999, aims to improve the living conditions of at least 100 million slum dwellers by 2020 (Millennium Development Goals, Target 11). Strongly endorsed by Kofi Annan and incorporated in the United Nations Millennium Declaration, adopted by 150 Heads of State in September 2000, progress towards the MDG Target 11 will be monitored through two indicators: (i) the proportion of people with access to improved sanitation; and (ii) the proportion of people with access to secure tenure.



Commitment to a New Urban Development Model for the City of São Paulo

1.1. Background: Peripheral Growth and Socio-economic Segregation in the City of São Paulo

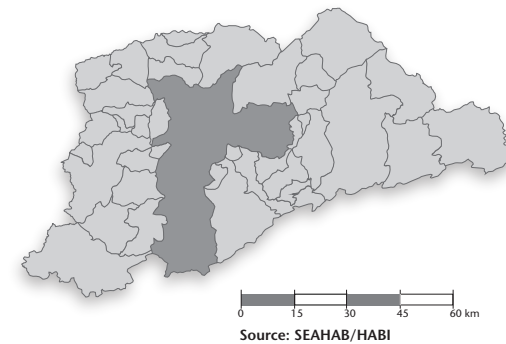
São Paulo is the capital city with the state with the same name and the heart of a sprawling metropolitan area. One of South America's biggest economic and technological hubs, accounting for more than 18% of Brazil's GDP (Cities Alliance 2002), the São Paulo metropolitan region is the third largest urban area in the world. The city of São Paulo (referred to as São Paulo in this document) is home to 10.4 million people (IBGE Census 2000) and spans 1,509 square kilometres, respectively, 59% and 19% of the Metropolitan Region. The city is characterised by high levels of social and economic inequality, and approximately 30% of its population does not have security of land tenure. In recent times, the city has witnessed a sharp rise in violent crime.



São Paulo - Downtown

Over the last two decades, São Paulo's population has been decreasing relative to the Metropolitan Region (IBGE Census Data). From 1980 to 1991, the city grew at an annual rate of 1.16%, while the Region grew at a rate of 1.88%. In the following decade (1991 to 2000), the city's annual growth rate dropped to 0.88% while the Metropolitan population grew at an annual rate of 1.65% (IBGE, 2000). This migration from the centre to the urban periphery can also be observed at the municipal level. Tables 1.1 and 1.2 show that the city's downtown, better served by infrastructure and social services (i.e., schools, hospitals, and police stations), posted a negative growth rate during the 1980/1991 and 1991/2000 periods. At the same time, in the peripheral districts, where urban development is less consolidated, the population increased.

São Paulo/
The Metropolitan Region and the Capital City



São Paulo/
The State and the Metropolitan Region



São Paulo Regions:

Permanent Private Households and Populations
(1980–1991)

Table 1.1

Region	Total of Households		Difference		Population		Annual Growth Rate (%)
	1980	1991	1980 - 91	1980 - 91	1980	1991	1980 - 91
Historic downtown	85,027	86,173	1,146	1.35	321,885	283,195	-1.16
Downtown (expanded centre)	326,378	340,716	14,338	4.39	1,152,445	1,047,827	-0.86
West	73,594	103,483	29,889	40.61	318,421	410,891	2.34
South	389,404	526,567	137,163	35.22	1,670,415	2,108,228	2.14
Southeast	273,248	314,982	41,734	15.27	1,101,350	1,162,402	0.49
East 1	264,730	297,097	32,367	12.23	1,098,752	1,131,919	0.27
East 2	218,356	359,804	141,448	64.78	1,010,528	1,524,490	3.81
North 1	67,424	94,177	26,753	39.68	288,892	370,350	2.28
North 2	363,996	416,954	52,958	14.55	1,530,538	1,606,883	0.44
São Paulo City	2,062,157	2,539,953	477,796	23.17	8,493,226	9,646,185	1.16

Source: IPEA 2001.

**Population and Annual Growth Rates in Central/ Intermediary and Peripheral Subregions
Period 1991/2000**

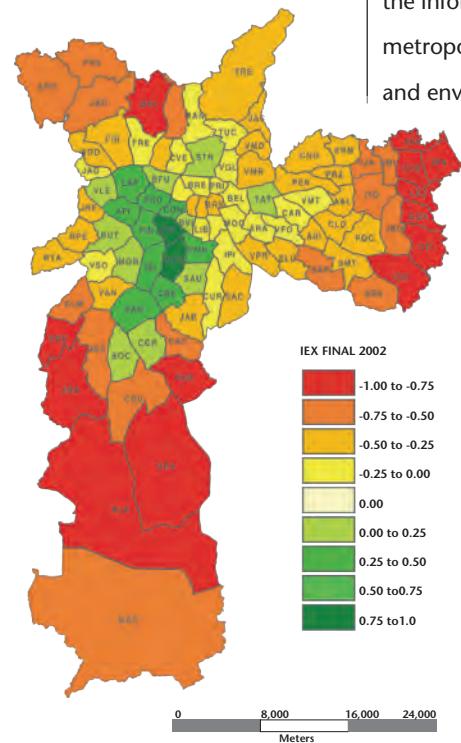
Subregion	Population		Annual Growth Rate (%)	Households
	1991	2000	1991- 2000	
Central/intermediary	5,649,633	5,299,842	-0.71	1,624,007
Peripheral	3,996,562	5,134,408	2.82	1,361,970
Total	9,646,195	10,434,250	0.88	2,985,977

Source: SEHAB 2003

São Paulo’s “peripheral growth”, which is common in other Brazilian cities as well, is partly caused by the formal sector’s limited delivery of affordable housing, which is itself due to the high real estate prices in urban areas and a dearth of subsidy policies targeting low-income populations. Indeed, the World Bank reported in 2002 that every year over 600,000 families in Brazil’s cities have no choice but to enter the informal housing sector. Informality spreads where land is more affordable on outskirts of cities and metropolitan regions, creating situations of physical and social isolation, a lack of urban infrastructure, and environmental degradation.

The Map of Social Exclusion/Inclusion in the city of São Paulo (Sposati 2002) applies data from the Brazilian Statistics and Geography Institute (IBGE) to several social and economic indicators, such as income and access to social services, for the city’s 96 districts. The results indicate that central districts have a high degree of social inclusion (they would be classified as High Human Development districts under the UNDP index), while peripheral districts feature a high level of social exclusion (and would be classified as Low Human Development districts). The map also shows that the population growth rate in districts with greater levels of social exclusion is higher than in other areas.

Urban violence in São Paulo has also reached critical levels over the last decade. However, a study conducted as a component of the *Bairro Legal* Technical Assistance Project challenges the often postulated correlation between poverty/social exclusion and violence (Kilsztajn et al. 2003). Kilsztajn demonstrates that while the most violent districts are all poor, not all of the poor districts are violent. Further, there are significant differences in the level of violent deaths among districts with similar levels of poverty and social exclusion. According to this study, these differences can be explained by the presence or absence of organised crime, especially drug trafficking.



Map of Social Exclusion/Inclusion, 2002
Source: SEHAB/SPOSATI

IBGE data and other specific studies indicate that, currently, about three million people in São Paulo live in some form of illegal settlement, without secure land tenure, in poor urban and environmental conditions and subject to violence, crime and frequent eviction. Unfortunately, housing policies adopted over recent decades, particularly in the 1990s, have not contributed significantly to reversing this picture, as discussed in section 1.3.



Periphery - District of Jardim Ângela

**1.2. Housing and Property Illegality
Affecting the Urban Poor**

Several forms of illegality affect the urban poor. This section describes the most common ones:

Squatter settlements or favelas, located on either public or private land. In both cases, the land has been occupied in a spontaneous or organised fashion against the legal owner’s will, and with no legal relationship established between the residents and the landowner (Pólis 2002). These settlements are occupied by low-income citizens and are characterised by poor urban infrastructure and public services.

Informal subdivisions developed below the minimum standards set by the Federal Land Subdivisions Law (6766/79, amended by Law 9785/99). This includes two subcategories:

Irregular subdivisions, which occur when a subdivision project is approved by the municipality at the request of the landowner, but the development deviates from the approved project, and;

Illegal subdivisions, which occur when a subdivision is developed without approval from the municipality. It is usually a third party that invades the land, subdivides it, and sells the lots (Pólis 2002). Those who illegally develop and market someone else's land are known as *grileiros*.

Cortiços, or slum tenements, usually originate from the conversion of old buildings in central areas into complexes of small rental units, that are poorly developed and maintained, often with high risk and degradation. The illegality of the *cortiço* is not specifically related to land tenure, but rather the building's overcrowded conditions, and failure to comply with building codes. Many also lack standard facilities such as kitchens, bathrooms and laundry rooms. In addition, the relationship between the landlord and the tenants is considered illegal, since it is usually not formally documented (Pólis 2002).

Public housing units that have not been regularised by the Metropolitan Housing Company of the municipality of São Paulo (COHAB-SP) or the São Paulo State Housing and Urban Development Company (CDHU). These cases do not actually involve a legal dispute, as it is in the government's interest to regularise these projects to be able to formalise the sale of housing units to their occupants. Although COHAB norms prohibit the resale of public housing units by their original occupants, there is actually a high degree of turnover in the housing complexes through under-the-table transactions. To deal with this problem, COHAB made an assessment of its housing complexes and discovered that, in addition to the high resale activity, there were also a significant number of vacant apartment units. Through the *Viver Melhor/Novação* Programme, COHAB has renegotiated the debts of 51,000 original occupants, reducing monthly payments and making partnerships with notary publics in order to facilitate the process of title deed registration. COHAB is also reallocating the vacant apartments, in accordance with its waiting list.

1.3. São Paulo's Housing Policies in the 1990s and Challenges for Going to Scale

In 1988, the new Brazilian Constitution made municipalities responsible for implementation of slum upgrading and land tenure regularisation programmes within a national policy framework. This new scenario, coupled with the Housing Finance System's (SFH) failure in providing a solution for affordable housing (see Chapter 2, section 2.2.1), prompted local Administrations to create their own strategies to address the housing deficit and precarious living conditions of the impoverished population. In São Paulo, as we saw, close to three million people live in precarious conditions. However, the housing policies developed in São Paulo in the 1990s failed to achieve their objectives from both a qualitative and a quantitative standpoint and addressed the housing problem in a fragmented manner, often

implementing solely infrastructure, and at other times producing only housing units. These policies have not promoted a comprehensive upgrading of precarious settlements and also failed in their mission to integrate poor urban communities into the urban fabric.

During the first Workers Party (PT) Administration² in São Paulo, from 1989 to 1992, Mayor Luiza Erundina centralised its housing and slum upgrading efforts under SEHAB's Social Housing Superintendence (HABI), which saw its workforce double from 350 to 700 people and gained importance within the housing department, representing 58% of SEHAB staff. The Administration's focus was clearly provision of new housing units for the low-income population, both through contractor-built housing and participatory efforts involving the affected communities, such as self-managed construction or *mutirão em autogestão*. The latter initiative, undertaken through the FUNAPS³ municipal fund, consisted of producing small and mid-sized housing complexes through community associations.



Mutirão - Jaraguá City

The city's role in these undertakings usually consisted of land acquisition, infrastructure and land subdivision, while community building associations were responsible for financing, building plans, monitoring works and providing some manual labour in the construction process. Community associations usually hired small firms of architects and engineers, known as *assessorias*, to provide technical guidance and help organise the process. Self-managed construction was considered innovative in that it promoted capacity development in the participating communities and increased transparency in the process of housing production. Another advantage of this system of building was that it not only improved housing standards for the impoverished population, but also strengthened community organisation.

² The Workers Party (PT) was founded in 1978 and quickly became Brazil's most important left-wing force.

³ FUNAPS is a municipal fund created in 1989 to assist families living in substandard housing.

⁴ (LABHAB FAUUSP 2003 data).

⁵ PPB, the Brazilian Progressive Party, is a conservative political party that is among Brazil's major political forces.

⁶ According to SEHAB data on the Mananciais Programme.

Although the Erundina Administration focused its initiatives in *favelas* on relocation of slum dwellers from high-risk areas, undertakings also included ongoing improvements and comprehensive upgrading programmes. During its four years in office, the administration invested US\$ 150 million in slum upgrading and housing development projects (Maricato 1997). The resources, provided by the municipal budget and the FUNAPS municipal fund, benefited 21,128 families⁴. Despite its poverty focus and innovative approaches, the scale of the Erundina Administration's housing programme was small compared to the city's needs and reached mostly those segments of the population that were organised in housing movements. In the land tenure regularisation front, the Administration's 1990 push to regularise occupation of *favelas* located in 140 public areas was thwarted by the City Council and only came to fruition more than a decade later (see Section 2.3.1).

The Erundina Administration also played a role in developing the Guarapiranga Programme, a partnership between the municipal and state governments. The state and municipality signed a loan agreement with the World Bank in 1992, but the programme only began in 1994 due to political turnover at both government levels. The programme was responsible for upgrading squatter settlements and informal subdivisions in the Guarapiranga basin and was also a component of a broad effort to control pollution in the reservoir. It continued through the subsequent Brazilian Progressive Party (PPB)⁵ administrations from 1993–1996 (Paulo Maluf) and 1997–2000 (Celso Pitta).

The original aim of the project was to upgrade 165 *favelas* with some 12,300 families, redirect sewerage systems from the reservoir and improve garbage collection in subdivisions over a five-year period. At its completion in 2000, the effort had directly benefited approximately 11,000 families living in slums and 14,000 families in irregular subdivisions at a cost of US\$ 157.4 million⁶. However, not all the informal settlements in the Guarapiranga basin were upgraded and a series of problems remain to be solved. The programme managed to partially reach its main objective, i.e. improving the quality of the water-source area for public use. Nonetheless sewerage systems in slum areas were not entirely intercepted and some human waste continues to flow into the water basin.

The state government and the World Bank are currently negotiating a second phase of the programme (Upper Tietê Watershed Programme), which will also include the Billings water reservoir, with a view to complementing the actions implemented in the programme's first phase.

In 1993, when PPB Mayor Paulo Maluf took office, the previous Administration's programmes such as self-managed housing production were temporarily interrupted, later to be resumed at a much smaller scale. The new Administration redirected municipal spending on upgrading and housing programmes to



Guarapiranga Programme - Jardim Esmeralda/ Iporanga

the *Favela Verticalisation Programme* (PROVER). Better known as *Projeto Cingapura*, PROVER's objective was to replace precarious housing in squatter settlements with low-rise apartment buildings. Financed by the Inter-American Development Bank (IDB) and with an overall investment of approximately US\$ 220 million⁷, this programme aimed to benefit 30,000 families. However, at its conclusion in 2003, only 14,595 families had benefited.

Overall, beyond its small scale, PROVER's success was limited. On the financial side, the unit cost (per-household) was much higher than that of similar slum upgrading interventions of the same scope, and the default rate among residents of the new apartments reached 64.5% in 2002. Families moving from squatter settlements into public housing units faced a new range of problems and expenses including maintenance and management fees as well as upkeep of common spaces, which often led to conflicts. Furthermore, due to the high construction costs, as many as half of the squatter settlements targeted for intervention received only partial solutions. In those cases, many families continued living in precarious conditions behind the new low-rise apartment complexes⁸. Finally, the programme was criticised for its reliance on a traditional and high-cost model of construction and building management, using large construction companies.

Mayor Celso Pitta's Administration basically gave continuity to the housing policies and programmes of the Maluf Administration, which included apart from the Guarapiranga and Cingapura Programmes, the *Lote Legal* Programme, aimed at upgrading infrastructure and regularising land tenure in informal subdivisions. The continuity of the Guarapiranga Programme was no doubt positive, but again during the Maluf and Pitta administrations the scale of the programmes was small, unit cost was high and little progress was made on the land tenure front.

Overall, a review of the municipal housing policies adopted over the 1990s demonstrates the lack of a comprehensive proposal able to transcend the electoral cycle and be implemented on the necessary scale. The challenge presented to the new municipal Administration in 2001 was, therefore, the development of such a comprehensive and long-term policy. The strategy adopted by the Administration in this respect (through SEHAB) is described in the following section.



Favela Verticalisation Programme - Prover Heliópolis

⁷ The total loan operation was US\$ 250 million, for the implementation of the *Favela Verticalisation Programme* and the *Legal Lot Programme*.

⁸ (LABHAB FAUUSP 2003 data).

1.4. The City's Commitment to Inclusive and Sustainable Urban Development

1.4.1. Political Commitment

In 2001, Mayor Marta Suplicy took office proposing the transformation of degraded areas into neighbourhoods through physical recovery, land regularisation and social inclusion. Concurrently, the new administration made a commitment to prevent forced eviction practices from both public and private land, as well as to promote land tenure regularisation for the low-income population. The administration named this set of initiatives aimed at reversing the dismal physical and social conditions of precarious settlements the *Bairro Legal* (or "Nice Neighbourhood") Programme, which was officially launched by SEHAB in 2001.

1.4.2. São Paulo's Municipal Housing and Urban Development

Department (SEHAB)

SEHAB's main goal is to promote urban and housing policies targeted at low-income families. Its three-pronged approach under the current Administration is to (i) promote urban and legal regularisation of precarious settlements, including their integration into the city; (ii) revitalise the downtown area and attract residents back to the area; and (iii) stimulate housing and land development by the private sector.

In order to implement its policy, SEHAB developed the following programmes:

The *Bairro Legal Programme* is an integrated programme for urban and housing upgrading. Its actions target specific areas predominantly occupied by the low-income population through initiatives for: slum upgrading, land tenure regularisation in squatter settlements and illegal subdivisions; upgrading of existing public housing units and construction of new units. The programme aims to develop its actions in conjunction with the social inclusion policies and social programmes undertaken by other government departments and agencies in an articulated manner and with participatory mechanisms involving civil society.

The *Housing Production Programme* seeks to expand the supply of new housing units for families with incomes below six minimum salaries⁹. It also seeks to find resettlement solutions for families affected by squatter settlement upgrading programmes. Self-managed construction initiatives are included in this programme, allowing community groups formed by future residents to participate and manage the production of new housing units financed by the government.

The *Living Downtown Programme* seeks to consolidate social housing and improve living conditions for residents of downtown areas. It also seeks to attract new residents from different income groups to the region, combining rehabilitation programmes with guarantees against eviction for the low-income population.

The *Administrative Modernisation Programme* seeks to modernise the administration to give more efficiency and transparency to SEHAB's actions.

SEHAB's actions to scale up slum upgrading and land tenure regularisation are concentrated in the *Bairro Legal* Programme. It is for this reason, along with the programme's novel multidisciplinary and inter-institutional approach, that *Bairro Legal* is the subject of this book.

However, the Administrative Modernisation Programme is also a pillar of the *Bairro Legal* Programme, especially with respect to facilitating processes of land tenure regularisation. The programme's goals and most significant results are presented in Box 1.

⁹ In Brazil, the minimum monthly salary, for a 44-hour workweek, is R\$ 260 or US\$ 95, as opposed to the minimum wage per work hour adopted in other countries.

Administrative Modernisation Programme: Goals and Results

Box 1

SEHAB is responsible for authorising all real estate undertakings in São Paulo. The Department has a mandate, therefore, to offer a streamlined and transparent permits process not only for low-income settlements, but also for projects in general. This goal has been achieved through the Administrative Modernisation Programme, with IDB funds totalling US\$ 1.2 million.

According to SEHAB data, the most evident result of the Modernisation Programme is the drastic reduction in the permit process. For instance, in 2000, 75% of projects submitted to APROV (Building Approval Department) took over 180 days to receive approval. In 2002, only 48% of the projects faced this long wait, while 23% of them received the green light in less than 90 days. In 2002, APROV also increased the number of projects approved by 23%, as compared to 2000. The department likewise witnessed a 15% increase in the number of permits awarded for renovations. Over 49,600 new housing units in buildings and complexes received SEHAB's go-ahead, 31% of which pertaining to public housing.

PARSOLO (Land Subdivision and Urban Intervention Department) registered a twofold increase in the number of linear metres of streets and avenues approved in the city (from 5,525m in 2000 to 10,860m in 2002). Approval of lot consolidations rose 46% from 340,000m² in 2000 to 497,000m² in 2002.

Administrative Modernisation also brought positive results to CASE (Sectoral Cadastre Department), which analysed 9% more billboard license requests (37,446 in 2002 against 34,330 in 2000).

CASE cadastral data with information regarding city parcels are now being digitised. According to SEHAB, basic urban information regarding zoning, the city's master plan, Zones of Special Social Interest (ZEIS), heritage buildings, highways, airport zones and other data facilitating land tenure regularisation will soon be available on the Internet.

In order to achieve this level of technological modernisation, SEHAB has invested resources in the acquisition of equipment as well as in renovation and expansion of its existing facilities.

Among its several new initiatives to facilitate housing production, SEHAB implemented the Blue Print On Line Programme, the result of a successful partnership between government, industry organisations in the construction sector and private entities. Funded by these partners, the programme offers an automated system for project approval. This system quickens approval of building permits, makes the approval process more transparent and allows the community-at-large, particularly the technical community, to easily track permit applications. This programme came on stream in 2004. The first results of this successful partnership can already be seen online, where information regarding land use and building codes has been made available to the general public.

SEHAB's modernisation also involves an institutional effort to improve procedures. In this respect, a new department was created in 2002 – Caeips (The Integrated Analysis Committee for Building and Land Subdivision), aiming at improving the permit process for projects that require analysis from more than one department or agency. Projects that in the past were submitted to several different government agencies one by one are now filed and analysed at once by all involved institutions.

Source: SEHAB 2004

1.4.2.1. Instruments Supporting SEHAB's Policy

Municipal, state, and federal laws regulating urban land subdivisions, construction norms, and environmental protection provide the legal framework for SEHAB's housing policy. Recently, important advances were made at the municipal and national levels regarding establishment of an urban development framework targeting the city's low-income communities.

The 1988 Brazilian Constitution established the general legal principles for the development of a national urban policy, built around the social function of land. But it was only after the 26th Amendment was passed on February 14, 2000, that the country recognised access to housing as a social right (Fernandes 2003).

Further advances in this regard came on July 10, 2001, when another federal law instituted the City Statute, providing a framework for the application of the constitutional principles on urban development. A milestone in Brazil's urban policy, the City Statute is one of the country's most important advancements on the federal level in terms of creating a legal framework for policies targeting the low-income population. The ratification of the City Statute is the result of over a decade of pressure from social movements, academia, and other groups involved in urban development. Notably, the City Statute introduced and/or systematised a series of instruments (described in Chapter 2) that facilitate land tenure regularisation for low-income families, such as: the Urban Usucaption, ZEIS and land use concessions, among others.

The Statute also regularised the use of instruments that enable municipalities to induce and/or provide incentives for private real estate development in specific areas of the city. These tools—among which are progressive property taxes on vacant properties and sale and/or transfer of development rights—are intended to reverse the process of urban sprawl and inner city degradation, while facilitating access to centrally-located land and housing for the poor. While some of the instruments created by the City Statute are proving difficult for municipalities to implement due to procedural tangles or impediments created by other laws, SEHAB has been able to use many of the new tools to its advantage.

SEHAB obtained another fundamental instrument for its housing policy when Congress passed a provisional measure¹⁰ authorising the Special Concession for Housing Use of public land for individual or collective housing. This measure proved critical for the regularisation of São Paulo's public areas occupied by low-income settlements.

¹⁰ MP 2220/2001.

On the municipal level a series of laws has helped construct the regulatory basis for local urban policies. One is *Lei da Dação em Pagamento* (Donation en lieu de tax), a law allowing indebted landowners to donate land to the municipality as payment for outstanding property taxes. Two other laws allow for regularisation of 160 squatter settlements located in public areas and regularisation of illegal subdivisions in existence prior to April 2000. The Municipal Strategic Development Plan (PDE) outlines the city's development guidelines for the next twenty years. Notably, it establishes the perimeters for ZEIS, comprised of precarious settlements to be upgraded and vacant urban land to be utilised for future low-income housing development.

Still at the municipal level, SEHAB submitted and had a number of laws passed in the city council that created incentives for production of low-income housing through tax exemptions. In addition, SEHAB revised legislation on low-income and affordable market housing initiatives, adapting existing regulation to the new parameters established by PDE, including those related to the ZEIS. Finally, SEHAB is also working on the revision of the building code, in order to adapt administrative procedures to digitalisation and improve control over building activities.

The transformation of São Paulo's regional administrative offices into sub-mayoral offices, known as *Subprefeituras*, represented a major advance in decentralisation. São Paulo has 31 *Subprefeituras*, autonomous governmental bodies with their own budgets that are responsible for implementation of public programmes and land use control at the local level¹¹. According to the PDE, *Subprefeituras* assumed responsibility for developing Regional Strategic Development Plans (PDRs) for their respective areas of jurisdiction. PDRs detail the PDE on the local level, particularly in terms of land use regulations and review of the ZEIS perimeters.

Despite the progress made possible by the new legislation regarding land tenure regularisation, there are still some legal impediments on the state and federal levels. Most of the laws in place that address land subdivision, land development and land use, fail to tackle the needs of low-income families. One such example is the 1979 Federal Law 6766 regulating land subdivisions, which set overly ambitious technical standards on the minimum lot size and percentage of total area designated for public use. This sharply increased the cost of opening legal subdivisions and contributed to the mass spread of informal subdivisions and land invasions witnessed in the 1980s. This is particularly true because implementation of the law was not systematically monitored since it was passed¹². Another example is the state law for environmentally protected areas, which restricts usage and occupation of areas surrounding water sources, but is also believed to have contributed to the spread of irregular settlements in these areas¹³. Finally, the São Paulo State Constitution¹⁴ prohibits the conversion of public land originally designated for public use into land for social housing. These laws are currently being revised and should eventually be made consistent with the guidelines established –the Federal Constitution, the City Statute and the provisional measure on Special Concession for Housing Use.

¹¹ To allow a smooth transition from the regional office structure to the *Subprefeitura*, the administration created a temporary structure called *Governo Local* (Local Government), formed by representatives of all municipal secretariats. *Governo Local* discussed municipal development at the local level. With the implementation of the *Subprefeituras* at the end of 2002, the *Governo Local's* structures were dissolved and their recommendations assimilated by the *Subprefeituras*.

¹² With as many as 900,000 families demanding housing every year in urban Brazil, two-thirds of which without any other alternatives but the informal sector, such restrictive land subdivision and environmental protection laws have been impossible to enforce.

¹³ The drastic drop in land costs in protected areas, coupled with lack of law enforcement capability on the part of the state and local governments, turned out to be powerful incentives to land invasions and informal land subdivisions in the areas that were "protected" under the law.

¹⁴ Article 180.

1.4.2.2. SEHAB's Financial Resources

SEHAB relies on municipal, state, federal, and international funds to implement its housing agenda. Under recent macroeconomic policies to curb public spending, which culminated in the 2000 Fiscal Responsibility Law¹⁵, however, São Paulo's access to international financing is limited due to its high public debt. Although many of its most important urban development initiatives, such as the Guarapiranga Programme, have used international financing in the past, the city cannot count on the availability of such resources in the immediate future for new project development.

In the absence of international credit, the city must rely on its own budget resources and leverage scarce state and federal funds to finance its upgrading and regularisation programmes. Cost recovery on such operations has been very low, relying almost entirely on revenues from utility tariffs. On average, the municipal budget has been allocating 3% of its resources annually to SEHAB - about US\$ 100 million. Housing construction and finance programmes are funded by the Federal Savings and Loan Bank (CAIXA) using Workers Severance Fund (FGTS) resources, the São Paulo State Housing Company (CDHU) using state sales tax revenue, and the Municipal Housing Fund (FMH)¹⁶. Still at the municipal level, SEHAB can rely on resources from the sale of development rights, as regulated by PDE. The Urban Development Fund (FUNDURB) is responsible for raising funds from such operations, which can be used to pay for public works for slum upgrading.

- 340,923 households living in squatter settlements (projection for 2012);
- 376,242 families living in informal subdivisions whose incomes are below five minimum salaries;
- 30,000 households residing in *cortiços*;
- 24,000 units of currently deteriorated public housing units; and
- Construction of over 99,000 new public housing units.

¹⁷ Resources from Brazil's massive FGTS Workers Severance Fund are generally targeted at conventional housing finance such as mortgage loans, catering to middle income segments and above.



Under the Municipal Housing Plan, in order to address São Paulo's housing emergency, SEHAB would require an annual budget of approximately US\$ 330 million, or an increase of 330% over annual allocations since 2001. The Municipal Housing Plan advocates the use of funding from the three levels of government in a complementary manner to address the housing issue. In this respect, the plan indicates available funding sources by type and source (for both subsidies and finance), but concludes that although the total amount of funds could be sufficient to meet demand, they would not be enough to meet demand by type. In other words, FGTS resources are abundant but they are designated for housing finance¹⁷, while resources to subsidise slum upgrading and housing programmes targeting low-income families are scarce, especially for those households earning below three minimum salaries, which make up most of the demand. This means that resources for slum upgrading must come from other funding sources.

Table 1.3 shows a scenario of financial needs by funding category in order to tackle the demand for low-income housing by 2012, based on the allocation of available funds.

¹⁵ Passed in 2000, the *Lei da Responsabilidade Fiscal* (LRF) or Fiscal Responsibility Law is the central element in a series of fiscal adjustment reforms implemented by the federal government. Under the law, the three levels of government are subject to limits on payroll expenditures (60% of net income for states and municipalities) and indebtedness. São Paulo is prohibited from contracting new international loans until 2010.

¹⁶ FMH is a special fund dedicated to implementation of the city's low-income housing policy. COHAB operates FMH, as directed by the Municipal Housing Council (CMH), a tripartite body created in 2002 that includes representatives from civil society, the government and the private sector.

1.4.2.3. The Municipal Housing Plan

The municipal government recently issued the Municipal Housing Plan. Based on annual growth projections for the housing deficit (including new units and upgrading), the plan envisages the need for US\$ 2.96 billion in total investments through 2012 to tackle São Paulo's emergency demands for housing.

The amount would benefit a total of 870,215 households, subdivided as follows:

Distribution of Financial Needs According to Intervention and Funding (in US\$ million)

Type of Intervention	Households	Total Need	Possible Types of Resources	
			For subsidies	For Housing Mortgages
New housing units provided	90,019	1,093	492	601
Upgrading of squatter settlements	340,920	1,411	1,119	291
Upgrading of informal subdivisions	375,874	401	281	120
Renovation of public housing units	24,000	17	17	-
Renovation of degraded tenements	30,000	41	-	41
Total	860,813	2,963	1,909	1,054

Source: PMSP 2003.

The table shows that even if fully utilising mortgage credit and subsidies, SEHAB will still face a funding shortfall and should, therefore, continue to invest in the development of a comprehensive and diversified financing strategy that is compatible with its objectives for upgrading and land tenure regularisation. This issue will be addressed in more detail in the final chapter of this book.

1.4.2.4. Technical Assistance Agreements

SEHAB recently signed a number of important technical assistance agreements, the first of which was with the Brazilian Bar Association (*Ordem dos Advogados do Brasil – São Paulo Chapter*) for provision of free legal assistance to low-income families living in precarious and irregular settlements and involved in land tenure regularisation processes (see Chapter 2). The second was with the Engineering and Architecture Council (CREA – SP) as well as Engineers' and Architects' Unions for free technical assistance related to planning and development of low-income housing construction and upgrading, as well as with the preparation of technical studies to guide land tenure regularisation. Finally, the technical assistance agreement with the Cities Alliance has given SEHAB support in designing a comprehensive framework for urban upgrading, the *Bairro Legal* Programme (see Chapter 3), a wide-ranging urban development and housing programme focused on the needs of the poorest.

1.4.2.5. Results of SEHAB's Current Housing Policy

During the 2001-2004 mayoral term of office, SEHAB achieved the following results through its programmes (HABITASAMPA 2004):

- Completion of designs and initiation of upgrading works in 35 squatter settlements;
- Urban and Environmental upgrading through the Water Source Programme, benefiting a total of 10,083 families (3,523 living in slums and 6,560 living in illegal subdivisions). The interventions involved the relocation of 818 families to housing complexes built by CDHU;
- Land regularisation and issuance of property deeds underway for 45,000 families living in 160 public areas (see Chapter 2);
- Upgrading and land regularisation of 69 informal subdivisions underway, benefiting 50,000 families who occupy 38,500 lots (see Chapter 2);
- Conflict resolution regarding occupation of private land, in order to avoid forced eviction of some 24,000 families (see Chapter 2);
- Renovation and land regularisation of 84 COHAB housing complexes, improving the living conditions of over 530,000 residents (in execution) (see Box 2);
- Delivery of property deeds to 51,000 residents of COHAB's housing complexes;
- Completion of 14,888 self-managed housing units (including 7,000 units initiated under the previous administration) and start-up of 34 new developments;
- Improving living conditions for downtown residents through rehabilitation of vacant buildings, such as the Rizkallah Jorge Building, turned into a residential development for 167 families;
- Streamlining the project approval and permits processes (see Box 1).

Improvement of Existing Public Housing Complexes: The *Viver Melhor* Programme

Box 2

Approximately 530,000 people live in public housing complexes developed by COHAB in São Paulo. The majority of these complexes were built under a public policy focused on mass production of housing in the outskirts of the city, areas that are poorly served by basic services and public transportation. Consequently, most of these housing complexes present critical socio-economic indicators and high levels of social exclusion¹⁸. In addition, many housing projects were built on land that did not have a regular title deed and many residents who have lived in their units for years still lack a property deed. This problem is often compounded by delinquency in repayment of COHAB loans.

The **Viver Melhor** (Better Living) Programme, implemented by COHAB, aims to reverse the current situation of social and economic exclusion that prevails in public housing complexes. Notably, it promotes the renovation of run-down housing complexes and regularisation of tenure. It also fosters creation of commercial areas within the housing complexes and the implementation of community centres such as the Telecentros, which provide free computer classes and Internet access to local communities.

Through **Viver Melhor**, COHAB has also developed a registry of the areas it owns throughout the municipality. The programme identified areas suitable for housing development and offered the remaining areas to other municipal departments for the construction of social facilities, such as public schools and health care centres.

Finally, through the **Novação** sub-programme *Viver Melhor* has reviewed and renegotiated the monthly instalments of COHAB's borrowers, enabling the projected delivery of 51,000 property deeds by the end of the current mayor's term on December 31, 2004.

¹⁸ According to the "*Viver Melhor*" Programme brochure.

1.5. Conclusion

It is clear that São Paulo's typical development model has led to the segregation of its poor citizens in ill-developed fringes of the city. This process has occurred simultaneously with significant migration from the urban centre to the periphery. The result, which is clearly unsustainable, is a city that is under-occupied in the best-equipped areas and over-occupied in the areas lacking access to infrastructure and services and which are also characterised by social exclusion, environmental vulnerability and higher levels of urban violence.

The lack of a long-term housing policy apt to withstand the shock of political turnover has prevented São Paulo from correcting its uneven urban development model and has, in turn, been responsible for public interventions that were fragmented and have had little impact on the city as a whole. A long-term housing policy that is inclusive, focused on poor citizens, and comprehensive enough to contemplate the diversity and complexity of São Paulo's low-income housing scenario is critical to reversing the city's current pattern of spatial segregation and urban sprawl.

Through SEHAB and its *Bairro Legal* Programme, São Paulo's Administration is committed to a comprehensive policy framework capable of scaling up slum upgrading and pro-poor urban development. The next chapters detail SEHAB's efforts towards such objectives and the challenges that lie ahead.

Moving Away from Forced Evictions and toward Secure Land Tenure



2.1. Introduction

Between 1993 and early 2001, the São Paulo municipal government filed over 100 lawsuits against families living in squatter settlements on public land. At the time, there was no legal precedent supporting land tenure regularisation for these situations, and the municipal administration remained neutral in disputes over private land, although at least 30,000 families living in squatter settlements faced eviction. Finally, the construction of *Águas Espraiadas* Avenue in the late 1990s resulted in the forced eviction of hundreds of families living in *favelas* along the avenue's course, reviving the feeling of insecurity so often felt by people living in illegal settlements¹⁹.

Upon taking office in 2001, Mayor Marta Suplicy and her cabinet made a landmark decision to put a stop to forced evictions and instead, champion land tenure regularisation for the hundreds of thousands of low-income families living in some form of illegality in São Paulo. The new administration was elected, in part, through the support of organised social movements, among which were groups advocating for slum upgrading, land tenure security for low-income families and the resumption of social programmes implemented by previous administrations. In response to the demands of its constituency, the new administration resumed initiatives such as a draft law proposing land tenure regularisation for squatter settlements in public areas. At the same time, it also developed new strategies for the city's urban development.

Over the last four years, the city has made significant progress with respect to land tenure security. The São Paulo Municipal Administration's first advance in this regard was its decision to repeal lawsuits filed by past administrations against families living in *favelas* on public areas. Simultaneously, the local City Hall established a conflict mediation process for disputes involving private land occupied by low-income families, through which the municipality acts to facilitate an agreement preventing forced eviction. As mentioned before, further advances came in the form of the 2002 law authorising the regularisation of illegal subdivisions in existence before April 2000 and the 2003 municipal law providing the legal basis for land tenure regularisation in public areas. Supporting application of these legal breakthroughs are efforts to promote greater interaction among municipal departments and the judiciary in order to establish standard operating procedure for future land tenure regularisation processes.

¹⁹ Families were given the choice of applying for an apartment unit to be constructed outside the area (through PROVER) or to be financially compensated. Most took compensation and moved to other squatter settlements in the city. The process was very traumatic for those involved, as described by Mariana Fix in 'Partners in Exclusion'.



Sale of land plots

²⁰ According to IBGE 2000 data, 21.6% of the households in São Paulo were renters, while 60.4% were homeowners and the remaining 9% were classified in other categories.

In the same vein, the 2001 City Statute and provisional measure (MP) 2220/01 on Special Concession for Housing Use have provided foundations for São Paulo's efforts to implement an urban development agenda focused on the low-income population. Their enactment follows the new Brazilian Constitution of 1988, whose principles were not applicable in the absence of federal laws creating and regulating instruments for city management, specifically those concerning use of public property and land tenure regularisation. The City Statute and MP 2220/01 finally filled that void, establishing federal guidelines on the rights and responsibilities of cities and the legal basis for concession of public land for collective and individual housing, crucial elements to the regularisation of the majority of São Paulo's squatter settlements.

behind hundreds of thousands of mass housing units, which were mostly appropriated by the lower middle class, while the impoverished population, the original target of the programme, remained in precarious settlements on informally subdivided land. In the same period, the São Paulo public housing company COHAB built thousands of public housing units under the BNH Programme. Public housing complexes were usually developed at the periphery, entrenching the pattern of segregation and environmental degradation.

Following a national economic crisis in the mid-1970s and the new restrictions established by land use regulations in 1979, informal settlements in São Paulo grew at an alarming rate in the 1980s as a result of declining public investment in the housing sector (see Chapter 1)²¹. Because the municipality did not legally recognise the informal subdivisions, it did not assume responsibility for provision of infrastructure to those areas. Thus, informality continued its expansion and the poor working class began to occupy vacant public areas within residential subdivisions originally slated to be parks and leisure areas²². It is no coincidence that the 1970s also gave rise to organised urban housing movements lobbying against forced eviction and for public provision of low-income housing and infrastructure. Their demands were incorporated into the platforms of political parties created during the late 1970s and 1980s (Silva 1994).

From 1970 to 2000, there was exponential growth in the number of people living in *favelas*, jumping from 1% to 11% of São Paulo's total population (Taschner 2003). Similarly, approximately 15% of its population is living in informal subdivisions and about 1% in centrally-located *cortiços*.

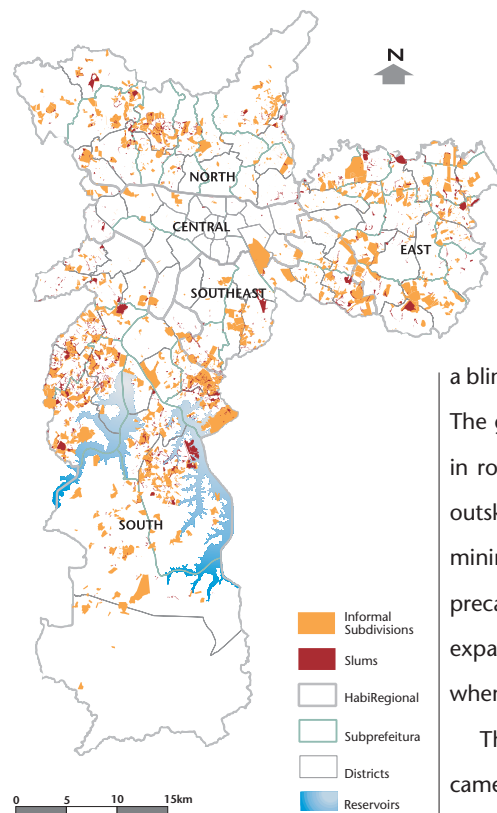
Table 2.1 gives figures on São Paulo's housing inequalities. Map 3 shows the concentration of squatter settlements and informal subdivisions in São Paulo.

²¹ From 1988 to 1996 São Paulo approved 23 mostly upmarket land subdivisions, representing 12,991 lots and occupying 835 hectares. In the same period 147,750 clandestine lots developed, occupying 3,311 hectares (IPEA 2001).

²² In 1973 the majority of the population (60.9%) living in *favelas* had income between the minimum monthly salary (whose 2004 is R\$240 or approximately US\$ 80) and twice that amount, and the population with income above five times the minimum salary was insignificant. In 1993, only 14.3% of the population in *favelas* had income between one and two minimum salaries, and the percentage of population in *favelas* with income above five times the minimum salary was 34.6% (IPEA 2001).

2.2. The State of Housing and Property in São Paulo

2.2.1. Overview



Map 3: Concentration of squatter settlements and informal subdivisions in the City of São Paulo

Source: SEHAB/HABI

São Paulo's rapid transformation into the country's main industrial hub in the 20th century sparked an enormous demographic expansion and a corresponding explosion in the demand for housing to serve the growing working class. Government rent control intervention beginning in 1942, resulted in a drastic retraction in the rental market, which in the 1940s represented over 67% of households²⁰. Aiming to address the demand for working-class housing without affecting the wages paid by the industrial sector, the government relinquished control over urban development, turning

a blind eye to the sizeable growth in individual homebuilding in illegal peripheral subdivisions. The government inadvertently fostered this development model through heavy investments in road infrastructure to the outskirts of the city. Informal, individual homebuilding on the outskirts of the city proved to be an expensive solution for workers, which were served by minimal infrastructure and faced long daily commutes (Bonduki 1998). Furthermore, the precarious infrastructure in these subdivisions jeopardised the environment, due to the expansion of settlements into environmentally-sensitive areas, especially after the 1970s, when many began to occupy the city's protected water source areas.

The year of 1964 marked a turning point in housing production when the military regime came to power and began a public housing initiative through the newly created National Housing System (SFH). Financing for the programme streamed from FGTS resources and individual savings accounts. The National Housing Bank (BNH), SFH's executive arm and the agency responsible for mass construction of public housing, went bankrupt in 1986. It left

Urban and Housing Inequalities by Type of Settlement, São Paulo, 2000

Table 2.1

Indicators	Squatter settlement	Informal Subdivision (1)	Public Housing	Degraded tenements (2)	Homeless (3)
Population	1,160,597	1,597,986	89,760	117,167	8,706
Households	291,983	439,412	24,000	44,550	3,212
Residents/Household	3.97	3.64	3.74	2.63	2.71
Average Income (MW)	1.80	3.48	n.a.	n.a.	n.a.
Average population density/hectare	380	132	n.a.	---	---

(1) Considered the total universe of informal subdivisions, as calculated by the Centro de Estudos Metropolitanos (CEM)/ Serviço Brasileiro de Aperfeiçoamento Profissional (SEBRAP) from 2000 IBGE Census data and the SP City Hall's digitised cartographic base

(2) 2000 IBGE Census

(3) 2000 Fundação Instituto de Pesquisas Econômicas (FIPE) Homeless Census

Source, PMSP 2003

2.2.2. Forced Eviction in Housing and Property Disputes

2.2.2.1. Housing and Property Disputes



Risk Areas/ Favela Parque do Gato

Three groups are generally involved in property disputes in São Paulo: the government, landowners, and families living in some form of land irregularity. These families, occupying land to which they do not hold a deed, are known as squatters. For obvious reasons, squatters and the legal landowners almost always have conflicting positions. On the one hand, squatters hope to obtain legal recognition of their right to an occupied property; while, on the other, legal landowners are always seeking to recover part or all of their capital losses, either through *reintegração de posse* (repossession of land), which ultimately involves forced eviction of squatters, or through land expropriation. The latter is a process in which the government takes possession of private land and pays the previous owner its ‘fair market value’.

In the past, when slum upgrading and land tenure regularisation were not widely practiced or accepted, the municipal government’s standard approach was to support repossession for disputes involving both private and public land. Under the current administration, however, forced evictions or repossession have only been employed in high-risk situations, e.g. settlements in areas prone to natural disasters, such as landslides or flooding.

Although the São Paulo Municipal Administration has taken on a mediation role in recent years, the court system has the main institutional mandate for resolution of land conflicts. Since 1988, when the new Federal Constitution recognised the social value of land, the courts have become more sensitive the squatters’ cause²³. Still, mediation is conducted on a case-by-case basis, and the results seemingly diverge according to the leanings of the court members of the judiciary involved in each case.

Some of the most important instruments for land tenure regularisation of low-income settlements are described in Table 2.2. The City Statute and MP 2220/01 regulate these instruments at the federal level.

²³ According to SEHAB, landowners are still much better equipped to deal with the legal system than squatters, who are often surprised to learn through an eviction order that they have no right to remain on the land in question.

Main Instruments for Land Tenure Regularisation of Low-Income Settlements

Instruments	Description
Urban Usucaption	Urban usucaption can be granted to occupants of urban land who have squatted for at least five years without any formal opposition from the landowner. It can be granted on an individual or collective basis. In either case, individual lot sizes should be no greater than 250 square metres, and the beneficiary cannot hold a title to any other urban property. Collective urban usucaption facilitates the land tenure regularisation of large irregular settlements, where the process of issuing individual titles is lengthy and complex.
Land Use Concession	Land use concession can take two forms: (1) Concession for Real Rights of Use (CDRU), which may or may not be free of charge and can be applied to either private or public land and (2) the Special Concession for Housing Use which is only applicable to public land. Contracts of land use concession are generally valid for 50 to 100 years in order to allow for the consolidation of social housing and may become permanent as long as the property is used for a residential purpose.
Right to the Surface	The right to use the land surface is transferred from the landowner to the squatter for a specific number of years. In this case, the landowner retains the land title.
ZEIS	Zones of Special Social Interest (ZEIS) are areas set aside in municipality’s Master Plan for slum upgrading, tenure regularisation and low-income housing development. An area classified as ZEIS can have urbanisation or development standards reduced in order to have the ‘de facto’ situation regularised. According to São Paulo’s Municipal Strategic Development Plan, which delimited the ZEIS perimeters, each area should have a development plan, produced with the participation of the affected communities.
Expropriation	The municipality pays the fair market value for transfer of the land title. It is the most expensive instrument, adopted only as a last resort.

Source: Pólis 2002.

Table 2.3 presents the most common types of land dispute, by form of illegality, and the most frequent solutions. In some cases, it is not possible to identify a most common solution since decisions are made on a case-by-case basis.

Most Common Types of Housing and Property Disputes According to Situations of Illegality

Types of Dispute	Most Common Solution
<p>Form of illegality: <i>Favelas on public land</i></p> <p>Dispute between the government (usually the municipality, except when the land belongs to the state or federal governments) and squatters. Of late, this type of dispute has happened only in high-risk areas, where residents are subject to natural disasters such as landslides or floods²⁴.</p>	<p>The government sues for repossession of public land if the illegal settlement faces imminent risk. In exchange, the government commits to providing housing or financial compensation for the evicted families.</p> <p>According to the map of the risk areas developed by the São Paulo administration in early 2003, there are 197 <i>favelas</i> in at-risk areas or 27,500 households, 2,700 of which at high risk.</p>
<p>Form of illegality: <i>Favelas on private land</i></p> <p>Dispute between the squatters and landowners, in which the latter files a lawsuit against the former for repossession of the land in question.</p> <p>The landowner is required to provide proof of ownership. Often, landowners are willing to accept financial compensation via expropriation of their land, rather than the forced eviction of squatters.</p> <p>Squatters seek advice from the organised housing movement and the municipal government, when the latter is sympathetic to the squatters' cause.</p>	<p>There is no general solution that applies to this type of conflict. In the past, landowners won the majority of lawsuits. But recently, backed by the 1998 Constitution and the City Statute—which recognised the social right to housing and the social function of property— squatters have been more successful in securing the legal right to remain in their dwellings. The Federal Constitution as regulated by the City Statute stipulates that an individual or a group can require the recognition of their right to the land they occupy through urban usucaption. However, usucaption only applies to cases in which the landowner has not sued for repossession within five years.</p> <p>Approximately 400 <i>favelas</i>, with varying degrees of occupation and consolidation, are located in private areas of the city.</p>

²⁴ Under the current municipal policy, a squatter settlement located on public land that does not constitute an at-risk area should be included in upgrading programmes. Tenure regularisation is provided through land use concessions, in which the municipality holds the title and families are granted use.

<p>Irregular subdivisions</p> <p>Dispute between the municipality and the landowner over a plot of land that has not been subdivided in accordance with municipal codes. Frequently, developers or owners fail to comply with municipal norms, in which case, the municipality can send written notification requesting regularisation of the land. (Pólis 2002).</p>	<p>If the landowner does not respond to notification, the municipality can proceed with the urban and legal regularisation of the subdivision. In such cases the municipality can put a lien on rent or payment installments to landowners to cover regularisation expenses. Alternatively, the municipality can seek a court order obliging landowners to reimburse the regularisation costs.</p> <p>After regularisation of the subdivision, resident families can regularise their individual lots and register their property titles.</p> <p>According to SEHAB, 28,970 families living in 22,287 irregular lots were at risk of eviction in the beginning of this administration.</p>
<p>Illegal subdivisions</p> <p>Dispute between the landowner and occupants, who often do not know that they purchased the land from a <i>grileiro</i> (a person conducting a real estate scam). The landowner sues the resident families for repossession.</p>	<p>The court will require that the plaintiff provide proof of both ownership and non-involvement in the development transaction. If such proof is provided, the original landowner is likely to win the lawsuit. Many times landowners and occupants themselves reach informal agreements outside the courts, whereby landowners receive compensation for losses. Because such agreements are often not properly registered, they resolve the immediate dispute, but families remain vulnerable to future lawsuits. This is usually the case until the subdivision is regularised.</p>
<p>Cortiços</p> <p>A dispute usually involving tenants and the property owner over upgrading the building and its installations.</p>	<p>In São Paulo, minimum housing conditions for <i>cortiços</i> are defined by a law, which also establishes the measures and instruments for municipal <i>cortiço</i> upgrading programmes. After undergoing a public upgrading programme, <i>cortiços</i> can be regularised to meet building codes and tenure can be established through instruments such as social rent and land use concessions defined by law, such as the Special Concession for Housing Use (Pólis 2002).</p>

2.3. São Paulo's Current Practices to prevent Forced Eviction and toward Secure Land Tenure

The main measures taken by the current administration since 2001 against repossession lawsuits and for secure land tenure are described below:

2.3.1. Suspension of Repossession Lawsuits and Regularisation of Occupied Public Areas

Land tenure regularisation took centre stage soon after the Marta Suplicy Administration took office in January 2001. Three months into the Administration's term of office, the municipality's Attorney General suspended all lawsuits for repossession of publicly owned land. Subsequently, only repossession lawsuits involving areas of imminent risk, as confirmed by field surveys, were reinstated. The new Administration's aim was to regularise and integrate precarious settlements into the city through municipal slum upgrading programmes.

The urgency of this matter was underscored by a court order authorising the city to repossess public land and evict occupants of the Parque Santa Edwiges subdivision, a consolidated settlement that has been established on public land for over two decades. Parque Santa Edwiges residents appealed to SEHAB. The Housing Department, in turn, passed the matter on to the Attorney General. As a result, the municipal legislature passed a temporary law, requiring the immediate suspension of court orders and sentences for repossession of public land occupied by *favelas* or irregular settlements in São Paulo, when these evictions imply a risk of worsening the city's social conditions. The decision prevented the eviction of Parque Santa Edwiges residents. At the same time, the law established that the municipality be responsible for conducting social impact studies for future lawsuits on repossession of public land. Although these measures served to assuage the concerns of communities facing eviction, SEHAB only arrived at a definitive solution when it submitted a draft law to the town council²⁵, which later became municipal law²⁶.

Based on a similar proposal submitted to the City Council in 1990 by former mayor Luiza Erundina, the draft law called for land tenure regularisation of 140 public areas. The list of areas was then revised, and the number rose to 160 areas. The new draft was unanimously approved by the City Council in early 2003 as the "160 Areas Law".

Under the "160 Areas Law", approximately 45,000 property deeds has been delivered to residents of 330 *favelas* located in 160 public areas throughout the city by the end of the administration's term on December 31, 2004. With a regularised tenure situation, residents will be free to rent or sell their properties. The municipal decree regulating the law envisages a special concession for mixed-use buildings and a special authorisation for commercial buildings located in the areas. In such circumstances the administration is free to decide whether or not to extend the benefit.

The Federal Constitution prohibits usucaption of public land, but authorises a Special Concession for Housing Use. Under the Constitution, this is a subjective right for residents, meaning that the government is required to grant it. Civil Law, in addition, established the Concession for Real Rights of Use (CDRU).

It is important to note that Brazil classifies public land into two categories: (i) public domain, for which the government can concede permission for use (CDRU, described in Table 2.2) and (ii) communal use, for which the government cannot concede permission for use. In order for a concession to occur using the latter, the government must first change the status of the land through a process called *desafetação* or alienation, so it can be classified as a public social interest area. Precarious settlements included in the 160 Areas Law are located on land originally classified as "communal use", which is why the process required a municipal law.

SEHAB officials opted to change of status of these 160 areas so that both forms of concessions can effectively be applied. That way, all residents, even those that do not meet the requirements for Special Concession for Housing Use, will be eligible. It is important to note that legislation on Concession for Real Rights of Use requires a change of land status, whereas the same is not true for Special Concession for Housing Use.

As Article 180 of the São Paulo State Constitution prohibits the alienation of "communal use" land, the constitutionality of the 160 Areas Law was questioned during initial deliberations in the City Council. What prevailed, however, was an interpretation that these areas had been designated for housing long before the São Paulo State Constitution was ratified, raising questions therefore on the constitutionality of Article 180 itself versus the 1988 Federal Constitution.

With that, SEHAB's Social Housing Superintendence, HABI, began local slum upgrading interventions in the 160 areas. Simultaneously, HABI began registering families and conducting an individual analysis of each home to determine eligibility for land concessions (Real Rights of Use or Special Concession for Housing Use).

2.3.1.1. Implementing the 160 Areas Law

While the 160 Areas Law does not guarantee immediate land tenure regularisation in affected areas, it does provide the necessary framework to initiate land tenure regularisation. Under Brazilian law, this process must cover not only the provision of infrastructure and elimination of risk situations (known as urban or technical regularisation), but also legal regularisation. In cases of urban regularisation, the communities, the municipality and all other involved stakeholders are faced with social, technical and financial challenges. In cases of legal regularisation, the challenge, as determined by the court, is to recover any documentation that may provide a better understanding of each stage of the process and all of the parties involved in the transformation of a vacant plot of land into a densely populated settlement.

²⁵ Draft Law 385/02.

²⁶ Law 13.514/03.



Delivery of Property Titles

The current São Paulo Administration intends to obtain complete regularisation of the 160 areas, consolidating housing units and ensuring land tenure through the provision of registered title deeds. To this end, the São Paulo Administration has filed several applications at the First Jurisdiction of Public Registries, laying the groundwork for future registries of individual lots and land concessions in the 160 areas. Many of the plots in the 160 areas were originally registered as open spaces (reserved for public parks or leisure areas) in legal subdivisions created under old legislation or decrees.

The First Jurisdiction of Public Registries is in charge of approving the new land cadastres for the 160 public areas. After several meetings between HABI technicians and the chief justice of the First Jurisdiction of Public Registries, the body issued a service order assigning legal specialists to work with the Technical Commission created by the Administration to establish standard criteria for future land tenure regularisation processes. The measure aimed to increase efficiency and speed in granting property titles to residents.

The First Jurisdiction of Public Registries' legal interpretation is that the de facto situation should prevail over the old registries and it should, thus, grant regularisation. This interpretation, also shared by SEHAB, was officially recognised by the First Jurisdiction of Public Registries in February 2003, and will be followed in future regularisation processes in order to simplify procedures. A case-by-case analysis may also determine that the process be implemented through administrative rather than judicial channels, which would simplify matters considerably.

In order to establish a forum for permanent discussion on the complex matters of land regularisation, the First Jurisdiction of Public Registries and SEHAB created a land registration taskforce to set the rules and procedures for future processes. The municipality also created an in-house working group—with representatives from the Mayor's office, the Housing Department, and the Legal Affairs Department—in order to develop a set of criteria and basic guidelines for future land tenure regularisation.

The 160 Areas Law benefits not only the residents of informal settlements, but also the city as a whole, by allowing for the development of a comprehensive framework for public land tenure. The 160 Areas Law is, in fact, a significant move toward scaling up such measures. The experience has afforded an important opportunity for collaboration between the executive and legislative branches, has contributed towards the resolution of technical conflicts and fostered the development of standard procedures for future land regularisation processes in the city.

2.3.1.2. SEHAB's Efforts in the Dialogue with Other Agents Involved in Land Regularisation

The advances made by SEHAB in public land regularisation are the result of better dialogue and collaboration between several stakeholders. It is important to note that this strategy mirrors the one being implemented on a federal level through the Ministry of Cities, focused on technical capacity building at the three government levels (federal, state and municipal), as well as the Judicial Branch, the Attorney General and civil society. The coordinated effort is likewise based on the adoption of instruments and legal procedures made possible following ratification of the City Statute and MP 2220/01²⁷.

In fact, notwithstanding efforts from SEHAB officials, the success of regularisation programmes in São Paulo is often contingent on the sympathy of the court system. The municipality is not always able to register the subdivision at the Property Registry upon completion of the technical regularisation. In some cases, the legal owner of the plot is not the party responsible for the subdivision project. In other cases, ownership may be split among several family members, some of whom deceased, representing further complications and delays in the registration process.

Cases like these prompted SEHAB and the Municipal Legal Affairs Department to establish a legal assistance agreement with the São Paulo Chapter of the Brazilian Bar Association (OAB), in order to afford legal counsel to those who cannot afford attorney fees. This agreement is based on the Federal Constitution and City Statute, which stipulate the provision of publicly-funded technical and legal assistance to low-income communities and social groups.

Under the agreement, attorneys provide legal assistance to communities living in squatter settlements, irregular subdivisions, multifamily housing, housing developments and any other type of informal housing²⁸, with the objective of defending the right to shelter and its integral regularisation. It is important to note, however, that the municipality has the mandate to indicate macro solutions for regularisation of subdivisions. The Bar Association will only offer assistance in cases in which the municipality cannot legally represent the residents. In a first phase, the agreement with OAB covers five subdivisions.

To promote smooth interaction with other links in the regularisation chain, the Marta Suplicy Administration has developed joint management activities with other agencies involved in the process. The Administration held several meetings with judges, prosecutors and public registry officials, as these individuals will process the urban usucaption lawsuits proposed by the OAB attorneys. The overall objective was to demonstrate the credibility of documentation, such as technical reports and topographical plans, presented by the municipality. The acceptance of such material, previously used in the technical regularisation of the settlements, as evidence in lawsuits speeds up the process and reduces costs.

²⁷ The Ministry of Cities is currently seeking Cities Alliance support to implement a training programme for land regularisation and risk prevention at a national level.

²⁸ Tenure regularisation is often required even in public housing complexes, which many times have been developed "informally" on land lacking full legal title.

In the same vein, SEHAB has also established a working relationship with São Paulo property registries and formed other partnerships for technical assistance with the Engineering and Architecture Council to aid in technical regularisation.

Tackling other impediments, the municipal administration has sought to reduce the costs associated with regularisation, by establishing a symbolic value for legal processes at Public Registries. Still, in cases of extreme need, the municipality may agree to cover the costs of such processes. At the same time, SEHAB has also been working with communities to raise awareness of the need to bear a part of the costs to complete their respective processes.

Efforts to improve dialogue between municipal technicians and other agents involved in land regularisation began to bear fruit after a workshop promoted by SEHAB, for judges, prosecutors, public counsel and registry officials. The debate focused on some of the most controversial and challenging topics on tenure regularisation, particularly, Collective Usucaption, state requirements, existing settlements located in public areas and documentation. The municipality, judges and public notaries are still debating many of these themes, but talks have resulted in the simplification of land regularisation procedures.

2.3.2. Conflict Mediation to Avoid Repossession of Irregularly Occupied Private Land

One common land dispute that has warranted public intervention, although the state is not directly involved, is a conflict between occupants of illegal subdivisions and a private landowner (see Table 2.3, Forms of Illegality: Illegal subdivisions). Technically, the municipality should have no involvement in a dispute between two private parties. Nevertheless, the social function of the land is the legal basis for the municipality to act as a facilitator to prevent forced eviction of low-income families. This is the approach SEHAB has taken since 2001, in part due to demands from the organised housing movement and low-income people who have fallen prey to real estate scams. The latter, as mentioned before in the text, are often unaware that their settlement was developed against the legal landowner's will and upon notification are surprised to discover that they have no legal rights to the land.

In response to demand in this area, SEHAB created a conflict mediation body at its Department for Land Division Regularisation (RESOLO), to assist families facing eviction to appeal land repossession orders. A typical RESOLO case begins with a private landowner suing to evict the residents of an illegal subdivision on his/her property. The residents then seek RESOLO's assistance. RESOLO, which cannot formally interfere in a private dispute, acts only to facilitate dialogue between the two involved parties and prepare materials such as registries and maps to support the residents' legal defence.

Before committing to a case, RESOLO's first step is to analyse the area's urban infrastructure and legal situation. This study determines the body's involvement in the case. If RESOLO commits to take the case, the stakeholders are summoned for negotiations. If an agreement is reached, the administration issues a Decree of Social Interest (DSI), based on the fact that several families risk losing their homes. From this point, two alternative solutions are explored: direct land acquisition by the residents or expropriation, if no agreement is reached between the residents and the landowner. In the former, the administration is only involved in verifying agreements established between the parties and making sure that subdivisions are adequately regularised. This latter alternative is a last resort, which is contingent on the availability of resources since expropriation represents a large expense for public coffers.

More often than not, landowners are quite willing to engage in negotiation and have waged lawsuits to recover financial damages, rather than for actual repossession. Two problems typically emerge in reaching compensation agreements. First, the squatter families have often already "purchased" the lot from someone they believed to be the owner, and are unwilling to pay a second time. Second, payment does not ensure the end of land disputes. In fact, residents may face eviction as long as they lack proof of payment for their lots. Because the turnover is high in these areas, resident families are very likely to be poorly informed of previous payments by earlier residents to settle similar agreements.

RESOLO strives to reach a fair agreement that benefits both parties. In this sense, RESOLO specifically (i) assists people in preparing evidence and materials for negotiations with the landowner, (ii) intermediates the financial negotiation in terms of value and payment conditions, and (iii) prepares a draft agreement to be presented to the courts. Once the agreement is reached, RESOLO assists residents in creating a community association to collect monthly payments made by residents and to transfer proceeds to the landowner, according to the terms of the agreement. RESOLO often recommends creating a new association, even if one already exists in the neighbourhood. This practice prevents disputes between competing parties in the community. RESOLO monitors the process and, when necessary, returns to the community to discuss payment of the monthly instalments.

In order to facilitate acquisition of the land under dispute, SEHAB has established close communication with banking institutions, especially with Bradesco²⁹. Through these special agreements, SEHAB expects to create microfinance programmes in which the bank provides loans at below market interest rates to allow for the direct acquisition of property by the residents.

If there is a condition that precludes agreement (e.g., if the land is part of a mortgage agreement), expropriation can be used. In this case, the municipality declares its social interest in the land and has up to two years to file an expropriation lawsuit. The expropriation constitutes a definitive solution for the dispute, but at a high cost to the municipality.



RESOLO - Parada de Taipas - Jaraguá

²⁹ Bradesco is Brazil's largest private sector bank.

2.3.2.1. Conflict Mediation Achievements to Date

Through its conflict mediation procedures, SEHAB has obtained the following results:

- An agreement at Jardim Pernambuco, renamed Jardim Nova Vitória, benefiting 2,500 families. Residents will make 60 monthly payments to the landowner through a recently created community association. Negotiations spanned one and a half years.
- Two expropriations at Jardim São Carlos and Parque Guarani, preventing eviction of 450 and 70 families, respectively.
- Mediation of a dispute between the state government and a landowner, preventing the eviction of families living in Vila Bela (information on the number of households affected is still not available).
- Declaration of social interest for an area within Jardim Aurora, housing approximately 4,000 families, in order to reach an agreement with the landowner.
- Follow-up of six other processes, which, if resulting in agreements, should benefit 6,000 families, scattered in various settlements.
- Negotiations for two other agreements, one at Pereira involving 150 families and another at Jardim Boa Vista (information on the number of families impacted is still not available).

SEHAB's conflict mediation strategy through RESOLO benefited roughly 13,000 families by the end of Mayor Marta Suplicy's term on December 31, 2004. Nevertheless, RESOLO's actions do not constitute a definitive long-term solution, except in expropriation cases. The City Council therefore altered the law. In the short term, landowners are merely dissuaded from forcing eviction. Hence, it is important that SEHAB, through RESOLO, continue the work initiated with residents of conflict areas to ensure that families make payments and register their properties, thus obtaining secure land tenure.

³⁰ Since it concerns private land, the responsibility for the regularisation is transferred to the landowner (see table 2.3). In cases related to irregular subdivisions, however, the municipality assumes the costs and seeks reimbursement from the owner subsequently.

³¹ In order to achieve the desired results from its regularisation programme, SEHAB rallied to change in municipal legislation. One law 11.775/95 did not authorise regularisation of subdivisions developed after December 1994, thus excluding a significant number of irregular settlements from the regularisation programme. The City Council therefore altered the law, authorising the regularisation of subdivisions in existence by April 2000. It also authorised the establishment of residents associations involved in regularisation in partnership with the Administration as well as long term payment agreements for property taxes related to regularised land. The new law has also altered the percentage required for public spaces, from 35% to 25%.

All types of problems appear in this process. For example, the lack of precise information in property titles or overlapping deeds require lawsuits and delay the process. The greatest obstacle, however, has been the state approval process. From November 2002 to May 2003, twenty requests for approval were submitted to the state-level GRAPROHAB (Housing Project Approval Group), but only one was actually approved. To overcome this problem, SEHAB has been working closely with the First Jurisdiction of Public Registry.

If a project is approved by GRAPROHAB, the state submits the process for approval and registration to the First Jurisdiction of Public Registry, which regulates subdivisions. At this point, the landowner (who should have already reimbursed the municipality for regularisation expenses) must have the subdivision listed in the Property Registry. Once the subdivision is registered, families can register their individual plots.

Based upon the experience of Legal Lot Phase 1, a proposal for a second phase was developed – Legal Lot Phase 2, which does not yet have funding. This second phase, includes 85 subdivisions with a total of 40,000 plots and 200,000 residents. The proposal also includes the *BEM LEGAL* Programme³², targeting small and medium subdivisions with few physical and environmental problems. The 96 subdivisions included in this programme have 42,000 lots and benefit about 210,000 residents.

At the beginning of the current Administration, RESOLO underwent several changes to improve efficiency and transparency. Among the actions of the Administration is the creation of a clear organisational chart for process implementation through five interdisciplinary management groups that oversee each stage of the process, including interaction with the public. An integrated approach to regularisation processes in terms of methodology, planning and procedures has afforded a more efficient analysis process.

³² *BEM LEGAL* is a play on words that means both "Legal Property" and "Very Nice".

³³ As described in Chapter 1, section 1.4.2.4.

2.4. Conclusion

São Paulo has been systematically moving away from forced evictions. It dropped most repossession lawsuits regarding squatter settlements on public land, removing families only where there is extreme need (approximately 2,700 families). In addition, SEHAB has been acting as a facilitator in land disputes among private parties, thus preventing the eviction of over 7,000 families and, with current activities, possibly another 6,000 families. The Law of 160 Areas regularised the situations of 45,000 families living in squatter settlements. Finally, with its several urbanisation, requalification and housing production programmes³³, SEHAB guaranteed land regularisation for more than 150,000 families.

The City Statute and MP 2220/01 clearly signal that land tenure regularisation for the urban poor is becoming a national priority. These new laws underpin SEHAB's efforts in establishing a framework to ensure secure land tenure for low-income families. Innovative regularisation procedures and systematic negotiations with all stakeholders do the rest. SEHAB's dialogue with the judiciary and property registries is a case in point. It is setting precedents whose relevance goes far beyond São Paulo, establishing national trends. For the first time in Brazil, security of land tenure for the urban poor is being promoted at scale and critical mass of capacity is being generated in the process.



A New Approach to Urban Upgrading and Regularisation of Precarious Settlements: The *Bairro Legal* Programme

3.1. Tackling Urban Poverty through a Comprehensive Approach

A comprehensive and progressive approach to urban upgrading and tenure regularisation programmes is essential to successfully address the dynamic, “spontaneous” development processes behind the spread of precarious settlements³⁴. This philosophy underpins the *Bairro Legal* Programme, a SEHAB initiative launched at the beginning of the new administration to encompass all the department’s upgrading, tenure regularisation and housing actions in poorly served settlements (see Chapter 1, Item 1.4.2).

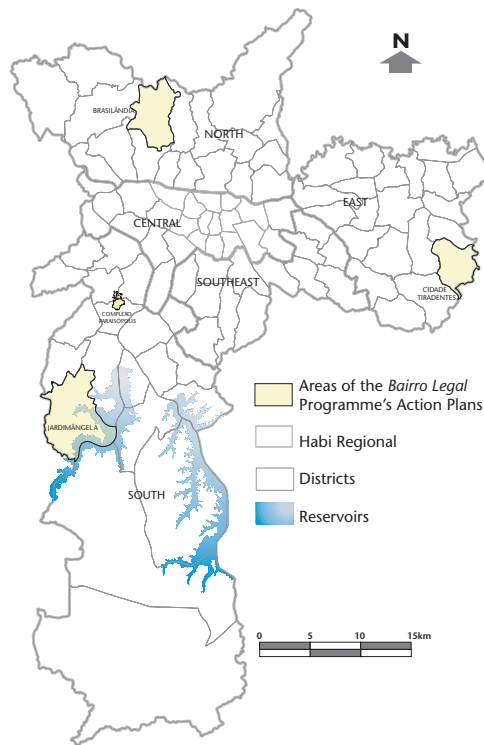
3.2. Building Blocks for Scaling up:

The *Bairro Legal* TA Project

The *Bairro Legal* Programme represents an important break from the pattern of fragmented and poorly integrated projects that characterised earlier municipal urban development programmes. It points towards a new urban development model that incorporates a complete understanding of the diverse problems affecting the poor in precarious urban settlements and implementation of integrated actions on the local level.

In this sense, one important component of the *Bairro Legal* programme was preparation of integrated local development plans on housing and urban upgrading for low-income areas, characterised by high levels of physical, economic and social exclusion. These plans provide a broad diagnosis of the economic, legal, social, developmental and environmental situation of sections of the city. Furthermore, they offer detailed guidelines for strategic actions to be undertaken in the short, medium and long term with the objective of promoting broad-based development in the areas in question. Through the technical and financial assistance of the Cities Alliance and in partnership with the World Bank, SEHAB recently developed the first three housing and upgrading action plans for the city, under the *Bairro Legal* Technical Assistance Project (TA).

Action plans are to be developed for São Paulo’s 96 districts, in contrast with previous programmes, which targeted only specific informal settlements. These 96 districts are large, heterogeneous areas. The areas chosen to develop the first action plans, as indicated



Map 4: Areas of the *Bairro Legal* Programme’s Housing and Urban Development Action Plans
Source: SEHAB/HABI

on Map 4, included the districts of Jardim Ângela, Brasilândia, and Cidade Tiradentes, and São Paulo’s second largest *favela*, the Paraisópolis Complex³⁵.

A key innovation of the *Bairro Legal* Programme is its holistic approach, whereby urban upgrading and regularisation initiatives are used as the entry point for the implementation of a broad range of social actions. The programme is particularly concerned with the alarming levels of violence and crime in the city of São Paulo. Urban violence was a primary factor in the selection of the areas for the first action plans, particularly the three districts. The TA project focused on understanding the causes of violence and its spatial distribution. It also proposed preventive measures that could contribute to violence and crime reduction in the areas of intervention, in partnership with other key authorities such as the Municipal Public Safety Department. Furthermore, there was an attempt to elicit links and develop synergies between housing and urban development actions and crime and violence prevention.

The *Bairro Legal* TA Project recognised that the districts shared a common problem: the chronic absence of the state. This absence was apparent from the lack of social services, public facilities, and public safety measures, and was in fact considered to be one of the causes of social and economic exclusion in large portions of the city. Communities outside the sphere of state action were condemned to live in a permanent state of exclusion, with rising levels of degradation and urban violence. This is not exclusive to the city of São Paulo. To some degree, most poor settlements in the developing world suffer from the absence of the State.

³⁴ Imparato and Ruster affirm that an integrated, area-based approach to needs assessment, planning and implementation is required to ensure an efficient use of financial and technical resources, while maximising the community’s willingness to participate. A broad long-term vision of the development of the settlement or area of intervention, rather than the particular requirements of any single type of infrastructure, needs to be the axis and connecting thread of the planning of an urban upgrading project, especially in the case of squatter settlements.
³⁵ Heliópolis, São Paulo’s largest *favela*, underwent a municipal social housing intervention through PROVER.

3.2.1. The *Bairro Legal* TA Project’s Outputs

The *Bairro Legal* TA Project generated a series of important outputs:

1. Four housing and urban development action plans for the districts of Jardim Ângela, Brasilândia, Cidade Tiradentes (‘district action plans’) and for the Paraisópolis Complex;
2. Contributions towards a methodology for analysis and prevention of violence through housing and urban development actions;
3. Consolidated methodology for housing and urban development action plans; and
4. A data management unit within SEHAB.

The various TA Project outputs address different sectors and their needs. The district action plans brought valuable contributions and insights to their respective areas. For the municipality as a whole, as well as for specialists and other interest groups, the methodology itself is the most important output. Finally, the data management unit, a result of the TA Project’s capacity-building component, is a critical resource for SEHAB.

3.2.1.1. Housing and Urban Action Plans for Jardim Ângela, Brasilândia and Cidade Tiradentes and the Paraisópolis Complex

The districts of Jardim Ângela, Brasilândia, and Cidade Tiradentes are predominantly poor, and are among those with the highest levels of social exclusion and violence. Each of the districts shows a different aspect of the city's housing and urban problems: Jardim Ângela, which spans 3,750 hectares and has 246,000 residents (IBGE 2000), is located in a watersource protection area, near the Guarapiranga reservoir, which is important to the municipality. It has a population density of 66 people per hectare. Considerably smaller, Brasilândia spans 2,100 hectares, but has a population of 247,000 (IBGE 2000) or 117 people per hectare. This district is located on the northern edge of the city in the Cantareira Mountains. Both districts are located in areas unsuitable for housing, but were nevertheless occupied by squatters or informal subdivisions.

In contrast, Cidade Tiradentes is the product of an intervention by the public sector. Built in the 1980s on 1,500 hectares of land, this is one of the several examples of mass housing production in the period. It is the smallest of the three districts, but has the highest population density, 191,000 inhabitants (IBGE 2000) or 127 per hectare. In all three cases, the districts are predominantly residential and offer few opportunities for employment and income generation. In all three – even Cidade Tiradentes – the State is notably absent, as are social services, public facilities, and public safety measures.

The Paraisópolis Complex is smaller than the districts, with an area of approximately 150 hectares and a population of about 45,000 people, representing a high density of 300 inhabitants per hectare. An enclave of poverty and exclusion in the heart of one of the city's most valuable real estate areas, its prime location has not spared the Paraisópolis Complex area from extreme levels of social and physical degradation. As mentioned above, the urban action plan for Paraisópolis Complex was developed before the district action plans and was not incorporated into the district-based methodology due to its much smaller scale. Its action plan was developed with the assistance of Diagonal Urbana, a private consulting firm, and served as the basis for ongoing projects in that area. Its guidelines were also incorporated by the Regional Strategic Development Plan (PDR) of the *Subprefeitura* of Campo Limpo, where the settlement is located.

The three district action plans were simultaneously developed between October 2002 and July 2003. The Housing and Human Settlement Laboratory of the University of São Paulo's Architecture and City Planning School (LABHAB FAUUSP) developed the district action plan for Jardim Ângela, and was also charged with proposing and consolidating the methodology for future initiatives. Two technical assistance organisations, GTA and Usina, provided support to the development of the district action plans for Brasilândia and Cidade Tiradentes, respectively³⁶.

Jardim Ângela



Brasilândia

The housing and urban development action plans provided important tools for improvement of the urban structure of their respective areas, indicating priority actions to be taken at the local level with the ultimate goal of countering the process of social, cultural and urban exclusion. The newly established *Subprefeituras*, which currently have very limited technical and financial capacity at their disposal, used the resources provided by the district action plans to design the local PDRs.

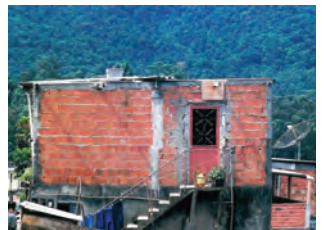
A major success of the planning process was the level of community involvement. In Cidade Tiradentes, in the pre-diagnosis stage, the TA established a participatory process whereby community members were invited to reflect on the problems of day to day life in the community. This approach was mutually beneficial. For the community, it generated great interest in the process—this was not just another series of community meetings where some speak up, most listen, and nothing happens. For the technical team in charge of designing the plan, such cross-sectional discussions—as opposed to sector-specific ones—were essential in defining the basic issues that would guide the planning process³⁷. Finally, the district action plans were also successful in moving away from the technical and arcane terminology common in these documents, towards a direct and accessible format for all involved parties. Instead of being a mere description of physical and social features, the plans became a narrative of the districts' main issues and development possibilities. The pre-diagnosis study prepared for Jardim Ângela, for example, could well be used in a high school geography class due to its relevance and simplicity³⁸.



Paraisópolis



Cidade Tiradentes



Brasilândia



Paraisópolis

³⁶ The 'preliminary' methodology recommends that each district action plan produce a series of documents: a pre-diagnosis, a diagnosis, priorities and guidelines, and the action plan. The first two documents present the most important characteristics of the district and the community. The last two present the action plan including a series of measures to be taken and indicate a management model for implementation of the plan. The design process for the three district action plans was the basis for development of the consolidated methodology, referred to as 'the methodology' in this book.

³⁷ (Usina 2003a).

³⁸ (LABHAB FAUUSP 2003b).

3.2.1.2. Violence Prevention through Housing and Urban Development Interventions

The *Bairro Legal* TA Project helped to put violence on the urban development agenda, fostering development of a “violence prevention approach,” aimed at analysing and treating this social ill. Some TA outputs proved important for violence prevention policy planning in the districts, including the map of violent deaths within the districts of Brasilândia, Jardim Ângela and Cidade Tiradentes or involving district residents in 2001³⁹ and a youth leadership programme in Cidade Tiradentes⁴⁰.

Violence prevention through youth leadership:



Community participation

Youths are particularly vulnerable to urban violence either as victims or to a lesser degree as perpetrators. Cidade Tiradentes, like the other areas chosen for housing and urban development action plans, has a large youth population that has graduated from high school, but has not yet entered the formal job market. In light of this situation, the TA developed a youth leadership project with a group of 80 adolescents from the district and awardees of the Municipal Work-Scholarship Programme. The youths were trained to be “reporteers” or young reporters, providing coverage on society and life in Cidade Tiradentes.

The reporteers produced inspiring material: a photo exhibit, a newspaper, and a CD (disseminated on local radio stations) on the current and future plans for Cidade Tiradentes from the perspective of its youth. Given the good results, SEHAB and the Labour Department continued this youth outreach effort, directing the reporteers to *Oportunidade Solidária* (Solidarity and Opportunity), another programme targeting community business development. In *Oportunidade Solidária*, small businesses are developed through incubators. With respect to its contribution in violence prevention, the activity set guidelines for aiding youths to enter the job market in a sustainable manner while enhancing their competitiveness vis-à-vis youths from other income groups⁴¹.

Mapping violent deaths:

Mapping violent deaths in the districts was the first step towards developing a methodology for violent crime analysis and mitigation. The results of this study were somewhat compromised by the lack of comprehensive data on other violent crimes, such as domestic violence, traffic accidents and rape. Nevertheless, the work led to important conclusions. For example, perceived violence is not exclusively related to the occurrence of violent acts. In reality, other factors, such as familiarity with the region, play a role in perception of violence. The second conclusion was that the areas with a concentration of victims of violent crimes did not coincide with the areas with a concentration of aggressors. Furthermore, while crime victims were concentrated in the most degraded areas of the districts, the occurrence of violent crime, including homicide, was concentrated in busier and more populated areas—often at bus stops and along major thoroughfares.

³⁹ The study was prepared by the Laboratório de Economia Social (Social Economy Laboratory) at Pontifícia Universidade Católica (LES PUC-SP), and led by Professor Samuel Kilsztajn.

⁴⁰ The project was implemented by the NGO Oficina de Idéias.

⁴¹ (LABHAB FAUUSP 2003e).

3.2.1.3. An Approach to Violence Analysis and Prevention through Housing and Urban Development Actions

Based on the georeferenced data, the TA was able to make the following suggestions towards an approach for violence analysis and mitigation:

- Because social conditions are a determinant factor of violence in a community, physical interventions alone will not decrease violence. Such measures should be associated with social assistance and public safety programmes;
- A reduction in physical degradation and housing density in districts, as well as provision of well-kept public spaces should help to curb violence;
- Increasing accessibility within a given district and to other areas of the city, including improvement of public transport, should also help to reduce violent crime⁴²;
- Initiatives to control and prevent urban violence should be monitored and assessed through a set of pre-established indicators to gauge the impact of action plans not only on homicides but also on other forms of violence.

In Brazil, implementation of public safety policies is only partially within the purview of municipal government. In fact, it is mostly the state government’s mandate to implement public safety measures. Urban upgrading and housing policies, on the other hand, are mostly a municipal responsibility. The housing and urban development action plans facilitate collaboration among different government levels to reduce urban criminality and violence and improve public safety. At the local government level, this collaboration entails the Municipal Department of Urban Security’s direct involvement in the design, implementation, and monitoring of district action plans. In this context, the Department could play a crucial role by establishing preventive community police patrols through the municipal police. The State Justice and Citizenship Department can deploy several other instruments, including the civil police’s participatory police stations, the military police’s preventive community stations and victim support centres (Mesquita Neto 2003).

⁴² According to the Municipal Administration, improvements in public transportation have already been brought about by the new Integrated Transit System, which regulates the use of informal shuttles and mini-buses and renewed the fleet under a new transit strategy.

3.2.1.4. Consolidated Methodology for Housing and Urban

Development Action Plans

The action plan's consolidated methodology (referred to here as the methodology), the final product of the *Bairro Legal* TA Project, contains all fundamental guidelines needed to replicate the action plans in São Paulo and other Brazilian cities, including contributions towards a violence prevention approach.

The methodology establishes the action plan's structural principles, as follows:

- Establishing government presence in the urban periphery;
- Contributing to control and reduction of urban sprawl;
- Direct involvement of the players in charge of implementing development policies⁴³;
- Promoting the integration of public policies in a government plan that goes well beyond the purview of SEHAB;
- Focusing on local governance and ensuring the inclusion of all local stakeholders (in this context, local communities should be involved as agents of change and not as passive clients);
- Organising this process into a series of steps in order to ensure progressive construction of the plan with the participation of local players⁴⁴;
- Indicating specific interventions to be implemented and their location in the district⁴⁵; and
- Promoting community participation at all stages.

With respect to implementation arrangements for the action plan, the methodology also makes recommendations:

- Creation of 'habitat agents', community members working at the local level to acquaint residents with mechanisms to address housing and urban development issues. Habitat agents also provide a communication channel between communities and the agencies in charge of the programmes;
- Implementation of "antenna offices", local offices of the *Subprefeitura*, which serve as the local base for implementation of the action plan and controlling its activities;
- Establishment of a specific unit to manage the action plan, constituted by members of the *Subprefeitura*, the central municipal government (particularly SEHAB) and local community representatives, among others.

Finally, regarding physical planning and infrastructure, the TA recommended that the action plans establish:

- Urban development and control programmes aimed at improving the habitat in aspects other than housing and transportation. The scope of the programme includes the creation of public or civic centres, neighbourhood commercial centres, and local structures involving the *Subprefeitura* and the community with the responsibility of controlling urban land use and occupation.

- Housing programmes: in most cases, housing interventions will fall under SEHAB's responsibility. Action plans should outline a strategy for prioritising upgrading and housing development in districts based on the following principles: (i) reverse the process of urban sprawl; (ii) improve urban living conditions, and; (iii) improve housing conditions. In this context, while SEHAB's housing programmes would distribute local interventions according to its specific programme guidelines, the action plan would identify priorities⁴⁶;
- Sanitation and environmental protection programmes, involving issues related to implementation and upgrading of infrastructure, as well as environmental recovery and protection as cross-cutting themes, should be part of every development intervention;
- Transport and accessibility: Social and economic segregation is not solely explained by spatial segregation, as illustrated by the Paraisópolis Complex, which is located within the city's central districts but still remains segregated. However, a poor road and transport network undoubtedly contributes to the poverty found in peripheral districts. Residents have few job opportunities in the district and depend on an unreliable transport system to access the job market. The same is true for social services and other public facilities. The housing and urban development action plan must, in this sense, indicate specific measures towards the improvement of transport and accessibility in the district, not only in terms of improvements in roadways with special attention to pedestrians and cyclists, but also the public transport system.

⁴⁶ A noteworthy example is the impact the action plan drafted for Cidade Tiradentes had in changing the course of public housing interventions in the area. The action plan's diagnosis identified that both the municipality, through COHAB, and the state, through the state housing company CDHU, were still replicating the mass construction model for public housing without providing public facilities and in areas that are far from job opportunities, despite indications that this model has led to many of the district's problems. As a result of the district action plan, SEHAB, COHAB and Cidade Tiradentes' *Subprefeitura* are discussing the need to change their approach towards upgrading the district, rather than merely building more housing units.

⁴³ Different political and administrative conditions at the municipal central and local (the *Subprefeitura*) levels will determine who will lead development of specific action plans. If a large number of district action plans are developed simultaneously in São Paulo or in any other city, it will not be possible for a single development agency like SEHAB to bear all the responsibility. In São Paulo, further action plans can be developed either by SEHAB or by the *Subprefeituras*, with SEHAB's support. In other cities, other types of municipal departments could be in charge of developing and implementing action plans.

⁴⁴ The organisation of the three district plans (pre-diagnosis, diagnosis, guidelines and priorities, and action plan proposals) was quite successful and should be maintained. The intermediary documents (pre-diagnosis and guidelines and priorities) make central documents more objective and straightforward. The intermediary documents also help in the collective construction of the main documents.

⁴⁵ Recommendations for actions should have specific deadlines and costs. This information is crucial for prioritising actions. Cost information is also needed for the creation of a funding strategy.

3.2.1.5. Developing a Data Management Unit within SEHAB

With a view to consolidating all the information produced by the action plans, the TA created a data management unit (hereafter 'the unit') within SEHAB.

The unit has constructed a georeferenced citywide database, building on information available from the action plans, SEHAB departments, and other municipal departments. The database currently has information on existing informal subdivisions, squatter settlements and public facilities in or near them, as well as information related to urban planning, land use, and zoning.

The unit's creation was the first step toward the systematisation and dissemination of data within SEHAB. Resources are still rather limited and the information is concentrated at the *Prefeitura* level. The *Subprefeituras* will need IT development and capacity-building in order to make use of the instruments being created at the *Prefeitura*.

3.3. Conclusion

The *Bairro Legal* TA Project represented an important step towards the development of a comprehensive and sustainable framework for urban upgrading and affordable housing. The Consolidated Methodology for Housing and Urban Development Action Plans presents a broad framework for design of local development plans, which can be adopted as a reference in other contexts. The action plans developed through the *Bairro Legal* TA Project provide a road map for gradual development of their respective areas.

The task facing SEHAB now is to consolidate the use of the action plans as the instrument to guide not only its own actions at the district level, but also those of the *Sub-Prefeituras* and other municipal departments. Local community organisations' ownership of the action plans turns them into a platform for the ongoing process of discussion about local development between public bodies and local organisations.

In this context, there are some challenges to be addressed by SEHAB. A full-fledged strategy to implement the district action plans in a short, medium and long term, is still lacking, as are equally important advances to guarantee institutionalisation of the *Bairro Legal* TA Project's outcomes. The challenge of institutionalisation requires improvements in SEHAB's structure, such as the consolidation of the data management unit and a comprehensive strategy to establish a funding source for urban development and housing action plans in other districts.

The challenges SEHAB faces for consolidation of its broader urban upgrading and regularisation policy are described in the fourth and last chapter of this document.



Challenges to Move Upgrading and Regularisation to Scale in São Paulo

4.1. Introduction

This publication analyses the *Bairro Legal* Programme and related actions implemented by SEHAB: measures against forced eviction and in favour of secure land tenure and the *Bairro Legal* TA project. Through these actions, significant advances have been made towards a comprehensive and integrated urbanisation and regularisation policy.

However, there are still many obstacles to be overcome with respect to land regularisation for precarious settlements and the implementation of the outcomes of the *Bairro Legal* TA Project. These obstacles need to be analysed in the context of the consolidation of SEHAB's policy.

4.2. Completing Land Regularisation for Public and Private Land

A broad legal framework on both the federal and municipal levels underpins SEHAB's land regularisation policies. Notwithstanding, there are still many stumbling blocks on the road to issuance of title deeds for the hundreds of thousands of families currently living in irregular situations. Conclusion of regularisation processes does not depend solely on SEHAB, nor the municipal administration as a whole, but a myriad of players including: the state government (which is partly responsible for regularisation of subdivisions); the original landowners of the subdivisions in question and the notary publics and property registries processing documentation. This lengthy chain of procedures and players hinges upon SEHAB's active role in fostering dialogue and collaboration among all agents involved in land regularisation. This experience is of interest not only to those involved in regularisation processes, but also to urban upgrading and housing projects nationwide.

4.3. Institutionalising the Housing and Urban Action Plans

The Methodology developed through the *Bairro Legal* Technical Assistance Project constitutes an important contribution to participatory planning technique in Brazil and abroad. Still, several obstacles require attention to heighten the impact of the action plans. The following are some of the concerns to be addressed:

- Consolidation of such action plans as an institutionalised planning instrument used by local agencies and other governmental levels: this is contingent on the establishment of a mediation and coordination body within SEHAB (or the *Subprefeituras*) to promote dialogue between all stakeholders involved in the specific development actions prescribed by the plans. In the short term, the action plans will need a coordinator to organise sets of actions across the different organisations involved in putting the strategies into practice.

- Gradual but continuous implementation: action plans are organised into short, medium and long-term measures; implementation is, therefore, both a gradual and continuous process. In the districts where plans have been prepared, it will be important to build and strengthen relationships across all levels, from the municipal administration and *Subprefeituras* to community groups and residents who participated in the planning process. In this regard, it is desirable that these stakeholders also participate in the development of an implementation strategy for the short-term actions described in the plan.

- Replication in other districts of São Paulo: replication of action planning in other districts can be facilitated if SEHAB is not solely responsible for implementation. In the long-term, *Subprefeituras* could assume responsibility for action plans under SEHAB’s overall guidance⁴⁷, provided that capacity-building is undertaken in these new government bodies, which still lack financial and human resources. A move in this direction would represent a significant advance towards the municipal Administration’s goal of decentralisation through capacity-building and execution of public policy at the local level⁴⁸. SEHAB’s role, in this case, would be to facilitate the participatory planning process and build local capacity along the way⁴⁹. Actually, replication of the action plans in other districts would require capacity building within both the *Subprefeituras* and SEHAB, which would need to develop specific outreach capacity.

Such practical actions aimed at providing continual support for the housing and urban action plans could be implemented as part of the proposed second phase of the *Bairro Legal* Technical Assistance Project, which is currently under negotiation between the municipal Administration and the Cities Alliance.

⁴⁷ SEMPLA (Municipal Planning Department) decentralised the development of PDRs, transferring the responsibility to the *Subprefeituras*. It still, however, coordinates the process and participates in the consolidation of the plan’s contents. The same could be done by SEHAB and the district action plans.

⁴⁸ São Paulo has been promoting public participation in decisions over budget allocation through the Participatory Budgeting process. However, in this process, investment proposals have been fragmented, reinforcing a pattern that the Administration is trying to avoid. The participatory budget could be adopted in tandem with the local action plans to define priority actions. This way, the action plans would have a permanent, institutionalised channel of public participation, and the participatory budgeting process would have the benefit of being based on coherent local development plans.

⁴⁹ In the near future, SEHAB will continue to coordinate implementation, particularly for projects financed with external funds and through central planning units within the department.

4.4. Improving SEHAB’s Technical and Financial Capacity for the Consolidation of Urbanisation and Regularisation Policies

In examining São Paulo’s tenure regularisation actions and the *Bairro Legal* TA Project, it is important to address a key structural issue: expansion of SEHAB’s technical and financial capacities..

4.4.1. Expanding SEHAB’s Technical Capacity and Coordination Role

SEHAB’s overall operations would gain considerably from efforts to expand technical capacity. Progress in this area would enable the Housing Department to pursue a greater role as coordinator of urban upgrading and development programmes and in doing so adopt a cross-sectoral approach to the city’s urban development and housing inequalities, as well as better identify the instruments to tackle these issues. This is the challenge for SEHAB and all agencies committed to promoting comprehensive development.

4.4.1.1. Adopting a Cross-sectoral Approach

In early 2003, SEHAB created a new management structure, establishing three Coordination Units (*Coordenadorias*) responsible for communication between the Housing Secretary, programme managers and unit directors. SEHAB’s *Coordenadorias* are organised as follows: Housing, Urban Development, Administration and Finance. The *Coordenadorias* are currently seeking broader integration among SEHAB’s different divisions and have already established permanent communication channels within the department. Over time, this structure is expected to be strengthened and gain support instruments.

There is clearly also a need for a consolidated information system to monitor the implementation and results of SEHAB’s programmes. At present, each one of SEHAB’s units has its own information system, but few are accessible to the whole department. A unified information and monitoring system would be a valuable asset that could afford SEHAB a better understanding of the municipality’s housing issues as well as the effectiveness of its programmes around the city.

The cartographic database developed under the *Bairro Legal* TA Project provides a comprehensive and consolidated overview of the city. If SEHAB is successful in providing a complete, block-by-block diagnosis of the city’s problems through such instruments and the housing and urban action plans, it will also be possible to develop a detailed map of possible solutions.

By improving central capacity across the housing sub-sectors and strengthening instruments that provide information on the city's housing and urban development issues, the municipal administration has sought to benefit all parties involved in the implementation of integrated development programmes (SEHAB, *Subprefeituras* and other stakeholders).

4.4.2. Developing a Comprehensive Financial Strategy

The consolidation of a comprehensive financial strategy is a critical element in scaling up urban upgrading and housing development. According to the Municipal Housing Plan, there is a gap between the volume of resources that would be needed and those that are available for housing and urban development projects in São Paulo. While there are ample resources for housing finance (from FGTS), there is a shortage of federal and municipal grant funding for urban upgrading (see Chapter 1). In reality, the biggest impediment to greater availability of resources for urban upgrading and social housing is represented by the financial constraints on municipalities imposed by the Fiscal Responsibility Law. Since the beginning of the current Administration, SEHAB developed and implemented its housing policy on an average annual budget of US\$ 100 million, including the department's overhead expenses. SEHAB's current budget represents only a fraction of what would actually be needed to meet the city's low-income or social housing needs through 2012, as demonstrated by the Municipal Housing Plan⁵⁰.

In an attempt to close this gap, SEHAB has lobbied for an increase in its share of the municipal budget. SEHAB has also incorporated the recommendations of the Municipal Housing Plan, and is seeking to access more state and federal funds⁵¹. At the same time, SEHAB is working to leverage the percentage of private capital in urban upgrading and housing development, both through sale of development rights and through direct incentives for private involvement.

As part of a concerted effort to leverage non-public sector resources, SEHAB has formed a landmark partnership with Bradesco, Brazil's largest private sector bank and a leading financier of the low-income population through its subsidiary FINASA. Under the partnership, FINASA created the *Crédito Direto ao Consumidor-Material de Construção*, a consumer credit line covering 100% of construction material purchases at National Association of Construction Material Retailers (ANAMACO) member stores. Sales teams at ANAMACO affiliated stores will receive special training to aid residents of SEHAB intervention areas and to grant up to R\$ 5,000 (US\$ 1,700) in credit on-line to individuals without proof of income. SEHAB's pilot project aims to improve the quality of housing in precarious settlements by facilitating acquisition of construction materials and providing technical assistance to self-managed home improvement and expansion. The first such project is in the *Nicarágua-Vila da Paz* settlement in South São Paulo, which has approximately 350 households

Another important partner in SEHAB's effort to leverage resources is the Banco Popular do Brasil (the People's Bank), the low-income arm of Brazil's largest bank Banco do Brasil. Through *Projeto Primavera*, Banco Popular will grant as much as R\$ 10,000 (US\$ 3,000) in credit for construction material purchases. Like the partnership with FINASA, resources are granted through ANAMACO affiliated stores for a specific region indicated by SEHAB. The pilot project for this partnership is *Jardim Arantes*, a subdivision in East São Paulo with 240 households.

These two pilot projects were launched in September 2004 and will be closely monitored in order to develop a replicable model. SEHAB aims to implement such projects throughout the city in those areas that have undergone upgrading programmes. This kind of project should constitute the final phase of action plans in *favelas* and informal subdivisions, upgrading and expanding dwellings in intervention areas.

Backed by the rights extended by the City Statute, SEHAB has also structured new alternatives such as the sale of development rights to finance slum upgrading in the city's two largest *favelas*. This project should only bear fruit in six to seven years, due to the high volume of resources needed for the undertaking. The partnership with the private sector represents, however, a first step in creating a sustainable resource base to continue upgrading programmes in the city.

Overall, the combination of the City Statute, MP 2220/01 and the Municipal Strategic Plan provide many legal and urban planning instruments to increase availability of funds on the municipal level (see Chapter 1, Section 1.4.2.1). The use of such instruments, however, depends entirely on private sector demand. In this regard, SEHAB is developing a strategy to leverage private capital for upgrading and social housing production.

Leveraging more municipal budget funds will also translate into a stronger government commitment to expand urban upgrading, housing development and land tenure regularisation programmes. In this regard, housing and urban development action plans can be powerful instruments for SEHAB (and the *Subprefeituras*) to leverage more municipal budget funds. Development actions implemented through district action plans will have impacts that extend beyond the urban development and housing sectors, promoting socio-economic development and improving public safety.

Finally, the Cities Alliance recommends that SEHAB develop a clear subsidy policy and cost recovery strategies for investments in urban upgrading programmes with a view to expanding its capacity to conduct interventions and provide subsidies to low-income families, according to their varying levels of need. Historically, slum upgrading projects in Brazil have not employed a cost recovery policy: the State has usually assumed full financial responsibility. By providing a full subsidy to every family living in the informal settlements it upgrades, the government misses the opportunity to recover part of its investments from those who can afford some kind of payment and target most of its subsidies to those families who cannot.

⁵⁰ (As mentioned in Chapter 1, SEHAB requires an annual budget of US\$ 330 million).
⁵¹ SEHAB is seeking an annual budget of US\$ 95 million from state sales tax revenue distributed through CDHU, for example. In SEHAB's opinion as CDHU's annual budget is US\$ 241 million and the city represents 40% of the state's housing needs, it should receive 40% of CDHU's annual budget.

4.5. Conclusion

This study has shown São Paulo's decisive moves towards a comprehensive policy framework for urban upgrading and regularisation of precarious settlements in the city, with a clear and consistent focus on low-income families. The *Bairro Legal* Programme, through actions against housing eviction, towards land tenure security, and the design of a methodology for development of housing and urban development action plans, has demonstrated the city's visionary commitment. Overall, actions implemented by SEHAB during the 2001-2004 administration have benefited over 300,000 families.

Key to the success of this strategy has been the fact that the processes for land tenure regularisation and development of district action plans are all based on stakeholder participation and negotiation and promote capacity-building among all involved parties.

This publication also demonstrates that the local Administration alone does not have the necessary resources to finance upgrading projects and housing production. Indeed, the Cities Alliance believes that SEHAB will strongly benefit from an efficient strategy to leverage resources, particularly those from the private sector, but also from the residents themselves. Microfinance programmes are also an effective development tool. In the same manner, a greater share in the municipal budget would ensure that SEHAB's urban upgrading, housing development and land tenure regularisation programmes are given the priority they deserve.

The current São Paulo municipal Administration has pioneered a comprehensive, integrated urban policy that is not only applicable on a citywide scale, but is also capable of withstanding the electoral cycle. In order to ensure the consolidation of this policy, it is important to refine the innovative instruments created by SEHAB, as well as reinforce its technical and financial structure. Through its members, the Cities Alliance intends to give its continued support to the municipality in pursuit of these auspicious goals.

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