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Government of Brazil

Ministry of Human Rights and Citizenship

**Decriminalization of homelessness and poverty – Information provided by Brazil**

The government of Brazil hereby addresses the call for inputs stated by UN Special Rapporteur on the right to adequate housing and the Special Rapporteur on extreme poverty and human rights. About the following questionnaire:

“The Special Rapporteur on the right to adequate housing and the Special Rapporteur on extreme poverty and human rights invite States, local Governments, civil society organizations, National Human Rights Institutions, and national associations working with the homeless, to submit information concerning:

1. Laws or regulations that prohibit begging, eating, sleeping, or performing personal hygienic activities in all or certain public places (please kindly include the wording of these laws and regulations and specify whether they are effectively enforced).

2. Laws or regulations that allow the detention or imprisonment of individuals who are unable to pay the fine imposed for petty offences.

3. Information about attempts made or planned to decriminalize street vending, informal business activities, sex work, begging, eating, sleeping, or performing personal hygienic activities in public places.

4. Information concerning initiatives to change the response of law enforcement officials and of the criminal justice system from penalization, punishment, or detention, towards facilitating social inclusion of persons living in poverty or experiencing homelessness.

5. Measures and services available at national, regional, or municipal level to support people living in poverty and in situations of vulnerability from having to resort to begging, sleeping, washing, defecating, or performing other hygienic activities in public places, because they lack access to employment, social assistance, adequate housing, public showers and toilets.”

Brazil prioritizes, in public policies directed towards the homeless, the creation, of the Directory for Promoting the Rights of People under Homeless Situation (DDPR), an extension of public policy decision-making spaces in the Ministry of Human rights and Citizenship, as well as the restructuring of the Intersectoral Committee for Monitoring and Supervision of the National Policy for the Homeless (CIAMP-Rua) as a guarantee of participation and social control in public policy development.

The Directorate for the Promotion of the Rights of the Homeless Population (DDPR), pursuant to Decree 11.341, from January 1, 2023[[1]](#footnote-1), which approves the organizational structure of the Ministry of Human Rights and Citizenship, has the competence to:

I - participate in the drafting of plans, programs, and projects related to the National Policy for the Homeless, as set out in Decree No. 7.053, dated December 23, 2009;

II - coordinate and propose measures ensuring intersectoral articulation of federal public policies for the implementation of the National Policy for the Homeless;

III - ensure compliance with the principles, guidelines, and objectives established in the National Policy for the Homeless;

IV - perform the executive secretary function for the Intersectoral Committee for Monitoring and Supervision of the National Policy for the Homeless, and ensure its resolutions are upheld;

V - assist in implementing the National Policy for the Homeless, as stipulated in Decree No. 7.053, dated December 23, 2009;

VI - encourage and support the establishment of local intersectoral management committees for monitoring the National Policy for the Homeless;

(...)

X - support the operation of the National Center for the Defense of the Human Rights of the Homeless and Recyclable Material Collectors.

It can be observed that, to a considerable extent, the Directorate's activities are linked to the implementation of the National Policy for the Homeless (PNPSR), with emphasis on Article 7:

The objectives of the National Policy for the Homeless are:

I - to ensure broad, simplified, and secure access to services and programs that integrate public policies in health, education, social security, social assistance, housing, security, culture, sport, leisure, work, and income;

II - to guarantee the training and continuous capacity-building of professionals and managers to act in the development of intersectoral, transversal, and intergovernmental public policies directed at people living on the streets;

III - to establish an official count of the homeless population;

IV - to produce, systematize, and disseminate social, economic, and cultural data and indicators on the existing public service network for the homeless;

V - to develop ongoing educational actions that contribute to the formation of a culture of respect, ethics, and solidarity among the homeless and other social groups, thus safeguarding human rights observance;

VI - to encourage research, production, and dissemination of knowledge about the homeless population, considering human diversity in its full ethnic-racial, sexual, gender, and generational scope, in various areas of knowledge;

VII - to implement centers for the defense of human rights for the homeless population;

VIII - to encourage the creation, dissemination, and provision of communication channels for receiving complaints of violence against the homeless population, as well as suggestions for improving and enhancing public policies for this segment.

Beyond institutional restructuring, it is worth noting that the priority of structuring public policy that allows the effective overcoming of homelessness, respecting the dignity and autonomy of people, through the *"Housing First" Project*, recognizing housing access as a human right and a gateway to other public policies. The "Housing First" project was inspired by the Housing First methodology, a model created in the United States in the 1990s. Its priority is to promote overcoming homelessness and guaranteeing human rights for families and individuals by providing immediate access to safe housing with public services, integrated with the community, with technical team support for domiciled living. This method has had successful initiatives in overcoming homelessness in several countries, such as the United States, Canada, European Union countries, and Chile. Brazil is currently having a successful experience in the state of Paraná, in the city of Curitiba, executed by the National Institute of the Human Rights of the Homeless Population (INRua) in partnership with the Archdiocese of Curitiba.

Discussions about the right of the homeless population to housing have been built and deepened between representatives of civil society and Federal Government agencies since 2016 when the "Housing First" proposal was presented, discussed, and approved at the CIAMP-Rua meeting. Since then, several international missions and seminars have been held by Federal Government representatives to learn about the model in other countries, online courses on government platforms, and at the end of 2022, the Brazilian "Housing First" Guide was launched, available to public managers and the Brazilian society in general.

To provide qualified information about "Housing First", it is also provided the book "Housing First: Subsidies for the implementation of the model in Brazil and the living conditions of women on the streets" (Annex I), The Brazilian "Housing First" Guide (Annex II) - an educational, informative, and guiding manual in the making that contains "Housing First" project models with methodology, guidelines, guidance for implementation, home technical support, monitoring, evaluation, and indicators for adaptation, local implementation, and an economic feasibility study with cost comparisons. Moreover, the Course "Homeless Population and the Housing First Model", which aims to promote the "Housing First" service model and guide public institution agents, civil society, and other interested parties on the topic for the development of all application stages in its practical and philosophical set, can be accessed through the link: https://www.escolavirtual.gov.br/curso/625.

The challenge of the current administration is to monitor and contribute to the structuring of projects in Brazilian states and municipalities using the "Housing First" methodology, thus breaking the step-by-step cycle of current public policies directed at this population, as is the case with projects that began to be developed in the cities of Brasília, Salvador, and some training actions for the implementation of the "Housing First" model for professionals in the care and attention network to the homeless population in the state of Minas Gerais.

Another significant aspect is the dialogues with international partners that have contributed to the realization of actions and materials (online courses, seminars, pamphlets, and guides) aimed at training Brazilian managers and society about the "Housing First" methodology, such as the *EUROSOCIAL Project* and FLACSO. Additionally, within the field of international dialogues, the resumption of partnerships within the scope of RED CALLE, which involves countries like Uruguay, Chile, Brazil, Costa Rica, Paraguay, Colombia, supported by European Union funds.

It is important to note that when profiling the homeless population in Brazil, there's a reference to vulnerability to violence. Many have reported facing various forms of discrimination, being prevented from entering certain places, and from conducting activities they need or desire to do.

According to data from the Epidemiological Bulletin on the Homeless Population and Violence - an analysis of notifications in Brazil from 2015 to 2017 (Annex III):

During the 2015-2017 period, 777,904 cases of violence were reported; of these, in 17,386 (2.2%), the primary motivation was the victim's homeless status. Among these 17,386 individuals, it was observed that the cases were concentrated in the age groups of 15-24 years with 6,622 (38.1%); 25-34 years with 3,802 (21.9%); and 35-44 years with 2,561 (14.7%). Although less frequent, there were also reported cases in children under 5 years old, numbering 303 (1.8%). Throughout the triennium studied, the most affected age group was 15 to 24 years (36.0% in 2015, 40.7% in 2016, and 37.9% in 2017). Notifications of violence motivated by homelessness were more frequent in females (50.8%), and among people of Black skin color (both Black and Brown) with 9,522 (54.8%) during the 2015-2017 period. The highest proportion of notifications was recorded among heterosexuals (65.2%) during the studied period, followed by those among homosexuals (2.9%). Transgender women were the most frequent gender identity among the notifications of violence motivated by the victim's homelessness (1.6% in 2015, 1.8% in 2016, and 1.8% in 2017). The proportion of "unknown/white" was high for the total years in the fields of gender identity (33.6%) and sexual orientation (21.1%).

It should be emphasized that the rights violations suffered by these individuals are related to or aggravated by their homelessness. In other words, the motivation or exposure to violence occurs in the streets because people find themselves in this condition. Therefore, even considering that existing policies, projects, and programs for this population should be maintained and expanded, it is already recognized in Brazil and various North American, European, and Latin American countries that the solution to reducing violations generated in the streets and guaranteeing fundamental rights depends on overcoming homelessness. This, in turn, is achieved through access to housing. Talking about violence against the homeless also highlights the institutional violence promoted by public entities in arbitrary actions of collecting identification documents and personal belongings that allow them a minimum of dignity, such as blankets, clothes, food, and medicines.

Regarding aspects related to violence, it was also observed that notifications of violence motivated by homelessness were more frequent in females. This fact is exacerbated when considering the lack of policies aimed at these women. It is known that before becoming homeless, these women underwent trajectories permeated by structural violence, ranging from the domestic environment to institutional aspects, such as the lack of policies capable of breaking this cycle of vulnerability. Thus, understanding the reality of homeless women is impossible without analyzing gender violence, particularly domestic violence. On this topic, Ornelas and Duarte (Annex IV) emphasize:

A more effective collaboration between the two sectors would provide a more appropriate response to the needs of survivors of violence who use services for the homeless, as well as improving housing solutions in the domestic violence sector (Bretherton & Mayock, 2021; Milaney et al., 2020). Organizations in the field of domestic violence can benefit from the knowledge produced in research and intervention with homeless people to implement Housing First programs, ensuring rapid access for women to permanent, individualized, safe, and community-dispersed housing. On the other hand, this collaboration would also be useful for Housing First programs implemented in the homeless population sector to more adequately meet the security needs and other specific needs of women survivors of domestic violence or other interpersonal violence situations. Gender violence is a structural issue in societies. In this sense, preventing and resolving homelessness for women requires broader initiatives to prevent and combat gender violence at all levels of society (Andermann et al., 2021). According to Rosa & Brêtas (2015), the Maria da Penha Law[[2]](#footnote-2) is an advancement in combating situations of domestic and family violence against women but needs to be applied more rigorously and more swiftly.

Finally, given the extreme vulnerability in which homeless individuals find themselves, resulting from various acts of discrimination and non-access to the enjoyment of fundamental rights, it is necessary for the monitoring and follow-up work of Ciamp-Rua to pay particular attention to Federal Decree no. 7053 of 2009[[3]](#footnote-3), which establishes the National Policy for Homeless People.

The following measures are in line with the actions of Ciamp-Rua:

1. Ensure compliance with Law No. 10,216 of April 6, 2001, so that hospitalization, in any of its forms, is only carried out when extra-hospital resources prove insufficient, doing so based on a detailed medical report that points out its reasons; and that compulsory hospitalization is determined, in accordance with current legislation, by the competent judge, who must consider the security conditions of the establishment regarding the protection of the patient, other hospitalized individuals, and staff.
2. Ensure that the social approach to homeless individuals is conducted responsibly, humanely, specialized, and multidisciplinary, respecting the precepts and guidelines of social assistance and human rights, through trained servers to promote it, linked to the Specialized Service in Social Approach, according to Resolution No. 109 of CNAS, not allowing the use of public security forces, except in cases provided by law for police action;
3. Ensure that all equipment and services for homeless individuals within SUAS, listed in Resolution No. 109 of CNAS and regulated by NOB SUAS 2012, operate according to their respective legal definitions;
4. Guarantee compliance with Ordinance No. 940/2011 of the Ministry of Health (art. 23, §1), which exempts homeless individuals from presenting address proof for registration and care in SUS;
5. Monitor compliance with the basic standard of quality, safety, and comfort in the structuring and restructuring of temporary reception services, according to the National Typification of Socio-assistance Services (Resolution No. 109 of CNAS), with the basic standard of quality, safety, and comfort of the temporary reception network observing capacity limits, rules of operation and coexistence, accessibility, healthy, and geographic distribution of reception units in urban areas, respecting the right of homeless individuals to remain in cities or urban centers;
6. Guarantee the implementation of POP Centers for municipalities with more than 300,000 (three hundred thousand) inhabitants with homeless individuals, according to MDS Ordinance No. 381 of December 12, 2006, duly complying with the technical recommendations on the topic issued by the MDS in the "Technical Guidelines: Specialized Reference Center for the Homeless Population - POP Center" (SUAS and Homeless Population, 2011), and
7. Ensure compliance with Law No. 11,124/2005, which provides for the National Social Housing System, especially regarding the application of resources from the National, State, Municipal, and Federal District Social Housing Funds.

1. http://www.planalto.gov.br/ccivil\_03/\_ato2023-2026/2023/decreto/D11341.htm [↑](#footnote-ref-1)
2. http://www.planalto.gov.br/ccivil\_03/\_ato2004-2006/2006/lei/l11340.htm [↑](#footnote-ref-2)
3. https://www.planalto.gov.br/ccivil\_03/\_ato2007-2010/2009/decreto/d7053.htm [↑](#footnote-ref-3)