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Forced Evictions, Homelessness, and Destruction: Summer "Games"? Olympic Violations of the Right to Adequate Housing in Rio de Janeiro

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**FORCED EVICTIONS, HOMELESSNESS, AND DESTRUCTION:
SUMMER “GAMES”? OLYMPIC VIOLATIONS OF THE RIGHT TO
ADEQUATE HOUSING IN RIO DE JANEIRO**

LEIGHA CROUT*

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Passengers balance on a cramped train as it passes the Olympic Rings placed in Mandureira Park in Rio de Janeiro, Brazil.¹

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¹ Image retrieved from Mark Byrnes, *In Rio, It's Still Full Speed Ahead for 2016*, CITYLAB (Aug. 7, 2015), <https://www.citylab.com/equity/2015/08/in-rio-its-still-full-speed-ahead-for-2016-olympics/400700/>.

INTRODUCTION

The Olympic Charter states that “sport is a human right.” It elevates the principle of human dignity and proclaims, “The goal of Olympism is to place sport at the service of the harmonious development of humankind, with a view to promoting a peaceful society concerned with the preservation of human dignity.” . . . For now, the IOC . . . ha[s] a serious problem: how to bridge the gap between these lofty words and the ugly reality on the ground.

– Minky Worden, Director of Global Initiatives at Human Rights Watch²

As regularly celebrated events at the forefront of international attention, the Olympic Games have long been considered an icon of transnational unity, camaraderie, and congenial sportsmanship among the various participating States.³ Although showcasing nigh-supernatural feats of physical strength and speed⁴ dominate the forum, it is not uncommon for the Olympics to “showcase” solidarity on modern issues of collective concern.⁵ There are several notable examples, including, first, the Germans cheering for Jesse Owens during the Summer Games of 1936 in the face of Adolf Hitler’s attempt to ensure Aryan superiority,⁶ the triumphant return of South Africa to the 1992 Summer Games in Barcelona following the destruction of the apartheid regime,⁷ and medal-winning sprinters Tommie Smith and John Carlos raising their gloved fists to protest the discriminatory treatment of African Americans in the United States.⁸

Indeed, the Olympic Movement, the international organization tasked with “contribut[ing] to build[] a peaceful and better world by educating youth through sport practised in accordance with Olympism and its values,”⁹ is

² Minky Worden, *Raising the Bar: Mega-Sporting Events and Human Rights*, HUM. RTS. WATCH (2015), <https://www.hrw.org/world-report/2015/essays/raising-bar> (quoting INT’L OLYMPIC COMM., OLYMPIC CHARTER 13 (Aug. 2, 2015) [hereinafter OLYMPIC CHARTER], https://stillmed.olympic.org/Documents/olympic_charter_en.pdf).

³ See Jacques Rogge, President, Int’l Olympic Comm., Lecture for the Royal Society of Arts, Manufactures, and Commerce: Advancing the Games (Nov. 24, 2008) (transcript available at http://www.olympic.org/Documents/Reports/EN/fr_report_1383.pdf).

⁴ The Olympic motto is “citi^us, alti^us, forti^us,” meaning, respectively, “faster, higher, stronger.” FAQ: *Olympic Rings and Other Olympic Marks*, OLYMPIC.ORG, https://secure.registration.olympic.org/en/faq/category/detail/25/id/29#faq_29 (last visited Jan. 25, 2018).

⁵ See Melissa Rayworth, *5 Olympic Games That Changed How We See Human Rights*, TAKEPART (Feb. 6, 2014), <http://www.takepart.com/article/2014/02/06/human-rights-violations-olympics>.

⁶ These particular summer games were often referred to as the “Nazi Olympics.” GARY L. BLOOMFIELD, DUTY, HONOR, VICTORY: AMERICA’S ATHLETES IN WORLD WAR II, at 10 (2003).

⁷ Rone Tempest, *South Africa Readmitted to Olympics Competition: Apartheid: Nation Ends 21 Years as a Sports Pariah Because of Racism. It is Eligible for the 1992 Games*, L.A. TIMES (July 10, 1991), http://articles.latimes.com/1991-07-10/news/mn-1896_1-south-africa.

⁸ Ben Cosgrove, *The Black Power Salute That Rocked the 1968 Olympics*, TIME (Sept. 27, 2014), <http://time.com/3880999/black-power-salute-tommie-smith-and-john-carlos-at-the-1968-olympics/>.

⁹ OLYMPIC CHARTER, *supra* note 2, at 17. For further discussion, see Elizabeth Hart Dahill, Note, *Hosting the Games for All and By All: The Right to Housing in Olympic Host Cities*, 36 BROOK. J. INT’L L. 1111, 1112 (2011).

devoted to the promotion of a more unified and socially conscious world.¹⁰ The Movement is governed by the text of the Charter and the authority of the IOC, which together endeavor to place the Olympic Games “at the service of the harmonious development of humankind, with a view to promoting a peaceful society concerned with the preservation of human dignity.”¹¹ In dedicating itself to these ideals of dignity and peace, the elevation, as well as the preservation, of individual human rights has become a significant consideration in both the planning and organization of the Olympics by the IOC and the Olympic Movement generally.¹²

Though participation in the Olympics has fostered iconic events that have altered history with their impact on international progress in the realm of civil liberties, the Games have now come to represent something far more sinister throughout the course of their production, namely, the aggressive and systematic deprivation of human rights in designated host cities.¹³ Disruptions to domestic infrastructure such as forced evictions,¹⁴ suppression of free speech and demonstration against maltreatment by the host State,¹⁵ regular maltreatment of migrant workers,¹⁶ and arbitrary arrests¹⁷ have become all too common in the normal procedure of Olympic construction and planning.¹⁸ The IOC has been harshly criticized for its flagrant disregard for the rights of residents in the face of their explicit commitment to uplifting fundamental human rights.¹⁹ In particular, human rights activists have called attention to the intentional disrespect of international, regional, and domestic human rights law in Rio de Janeiro, Brazil, the site of the 2016 Summer Olympics.²⁰

This theme applies with particular force in regard to the right to adequate housing, recognized internationally as an entitlement that is fundamental to the preservation of basic human dignity.²¹ Throughout prior iterations of the Summer Olympics, and other international games and mega-sporting events²²,

¹⁰ See generally OLYMPIC CHARTER, *supra* note 2.

¹¹ *Id.* at 13.

¹² *Id.*

¹³ Dahill, *supra* note 9, at 1113.

¹⁴ Jonathan Watts, *Forced Evictions in Rio Favela for 2016 Olympics Trigger Violent Clashes*, GUARDIAN (June 3, 2015), <http://www.theguardian.com/world/2015/jun/03/forced-evictions-vila-autodromo-rio-olympics-protests>.

¹⁵ *China: Olympics Harm Key Human Rights*, HUM. RTS. WATCH (Aug. 6, 2008), <https://www.hrw.org/news/2008/08/06/china-olympics-harm-key-human-rights>.

¹⁶ *Russia: Migrant Olympic Workers Cheated, Exploited*, HUM. RTS. WATCH (Feb. 6, 2013), <https://www.hrw.org/news/2013/02/06/russia-migrant-olympic-workers-cheated-exploited>.

¹⁷ Worden, *supra* note 2.

¹⁸ See Dahill, *supra* note 9, at 1113.

¹⁹ Owen Gibson, *IOC Attacked by Human Rights Groups Over Olympics Host City Contract*, GUARDIAN, (Sept. 25, 2015) <http://www.theguardian.com/sport/2015/sep/25/ioc-human-rights-host-city-olympic-games>.

²⁰ *Brazil: 2016 Summer Olympics*, SPORTS & HUMAN RIGHTS., <http://www.sportandhumanrights.org/wordpress/index.php/2015/06/18/brazil-2016-summer-olympics/> (last visited Jan. 25, 2018).

²¹ See G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 25 (Dec. 12, 1948) [hereinafter UDHR]; G.A. Res. 2200A (XXI), International Covenant on Economic, Social and Cultural Rights, art. 11 (Dec. 16, 1966) [hereinafter ICESCR]; G.A. Res. 2200A (XXI), International Covenant on Civil and Political Rights United Nations (Dec. 19, 1966) [hereinafter ICCPR].

²² The term “mega-events” refers to those international events that generate a substantial impact on the host nation’s social and economic development. See U.N. DEP’T OF ECON. & SOC. AFFAIRS, SHANGHAI MANUAL: A GUIDE FOR SUSTAINABLE URBAN DEVELOPMENT IN THE 21ST CENTURY (2012),

the right to housing has been consistently attacked by both governments and private companies hoping to benefit from the occasion.²³ 1.5 million persons were displaced throughout the course of the 2008 Olympics in Beijing with reports of inadequate or nonexistent compensation.²⁴ Just prior to the Sochi Olympic Games, the Russian government promulgated Law 301, which sanctioned the seizure of more than 1,000 homes in order to create space for new highways and sports facilities.²⁵ This trend continues even today, wherein low-income communities and other marginalized groups in Rio de Janeiro, Brazil, suffer the continual exploitation or entire deprivation of their private property in preparation for the 2016 Summer Olympic Games.²⁶

This paper will describe the egregious violations of human dignity taking place in Rio de Janeiro, Brazil, in preparation for the 2016 Summer Olympics.²⁷ In particular, the infringements upon the right to housing will be evaluated by determining whether the obligations imputed to the host state, Brazil, and the self-imposed standards, as articulated by the IOC, are being adequately observed in anticipation of the mega-sporting event. Throughout the consideration of this right, the following aspects of law will be considered: the international obligations assumed by Brazil through voluntary accession to human rights instruments, any applicable regional human rights law produced by the subsidiary bodies of the Organization of American States, including the Inter-American Court of Human Rights or the Inter-American Commission on Human Rights, the domestic legislation enacted by the Brazilian government, as well as its constitution, and the designated responsibilities of the IOC. In so doing, this paper will outline the unfortunate practice of disregard for fundamental human rights on the part of both the IOC and the citizens' own government.

http://www.un.org/esa/dsd/susdevtopics/sdt_pdfs/shanghaimanual/Chapter%2010%20-%20Mega%20events.pdf.

²³ See Lucy Amis, *Striving for Excellence: Mega-Sporting Events and Human Rights*, INST. FOR HUM. RTS. & BUS. at 1, 30 (Oct. 2013), https://www.ihrb.org/pdf/2013-10-21_IHRB_Mega-Sporting-Events-Paper_Web.pdf.

²⁴ *Id.* at 9. See also Lindsay Beck, *Beijing to Evict 1.5 Million for Olympics: Group*, THOMSON REUTERS (June 5, 2007), <http://www.reuters.com/article/us-olympics-beijing-housing-idUSPEK12263220070605>.

²⁵ Sergei L. Loiko, *Sochi Olympic Winter Games at Root of Residents' Housing Woes*, L.A. TIMES (Feb. 6, 2014), <http://articles.latimes.com/2014/feb/06/world/la-fg-sochi-dark-side-20140207>.

²⁶ See, e.g., *Brazil: Forced Evictions Must Not Mar Rio Olympics*, AMNESTY INT'L, (Nov. 14, 2011), <https://www.amnesty.org/en/news/brazil-forced-evictions-must-not-mar-rio-olympics-2011-11-14>.

²⁷ References may be made to former iterations of the Summer Olympics in order to emphasize the pattern of conduct by both the host State and the IOC in ignoring significant issues impacting human rights. For one example of a violation of human rights in Rio de Janeiro, see Jenny Barchfield & Brad Brooks, *Rio's Waters Are So Filthy That 2016 Olympians Risk Becoming Violently Ill and Unable to Compete*, BUS. INSIDER (July 30, 2015), <http://www.businessinsider.com/rios-filth-is-already-spoiling-the-2016-summer-olympics-2015-7>.

I. ANALYSIS

A. *The Facts*

“If you don’t leave out of love you will leave out of pain.”

–Alex Costa, Sub-Major of Barra da Tijuca, to Vila Autódromo residents refusing to leave their homes adjacent to the 2016 Olympic Park²⁸

In a recent study undertaken by the City Hall of Rio de Janeiro, it was estimated that more than 22,059 families residing in the area have been systematically displaced between 2009 and 2015.²⁹ Though domestic nongovernmental organizations have noted that a significant number of those families forced to relocate were likely induced to do so for reasons relating to the construction projects undertaken for the FIFA World Cup and the impending Summer Games, it is difficult to acquire an accurate estimate of those affected as a result of these mega-sporting events.³⁰ The most probable reason for this disparity is that those entering governmental data often cloak the true reason for eviction with causes such as “environmental interest” or issues such as potential “geological risk.”³¹ However, based on available data, it is speculated that as of November 2015, 4,120 families have been removed and 2,486 families may still face the threat of displacement in connection with the 2016 Summer Olympics.³²

Former United Nations Special Rapporteur on the Right to Housing Raquel Rolnik, who served from 2008–2014, addressed numerous allegations filed by affected families against the government of Brazil during her term.³³ In a press release, Ms. Rolnik stated that she was “particularly worried about what seems to be a pattern of lack of transparency, consultation, dialogue, fair negotiation, and participation of the affected communities in processes concerning evictions undertaken or planned in connection with the World Cup and Olympics.”³⁴ Citing recurrent themes of limited compensation leading to homelessness, disregard for guidelines detailing formal procedure for government takings of private property, and a clear need for initiatives to be undertaken by the Brazilian administration, the Special Rapporteur called for the adoption of a “Legacy

²⁸ Sam Salvesen, *City Government Lays Pressure on Vila Autódromo with Eight Months to Rio’s Olympic Games*, RIOONWATCH (Dec. 22, 2015), <http://www.rioonwatch.org/?p=25938>.

²⁹ *Reassentamentos: Só Em Último Caso e Priorizando Populações Vulneráveis*, MEDIUM (July 24, 2015), <https://medium.com/explicando-a-pol%C3%ADtica-de-habita%C3%A7%C3%A3o-da-prefeitura/reassentamentos-s%C3%B3-em-%C3%BAltimo-caso-e-priorizando-popula%C3%A7%C3%B5es-vulner%C3%A1veis-2cf4a6dc847b> (translation available when accessing source).

³⁰ It was speculated, however, that the majority of displaced families were removed in connection with the FIFA World Cup and the 2016 Summer Olympics in Brazil. WORLD CUP & OLYMPICS POPULAR COMM. OF RIO DE JANEIRO, MEGA-EVENTS AND HUMAN RIGHTS VIOLATIONS IN RIO DE JANEIRO DOSSIER 20 (Nov. 2015) [hereinafter RIO DE JANEIRO DOSSIER], http://issuu.com/mantelli/docs/dossiecomiterio2015_eng_issuu.

³¹ *Id.* (“Although it is clear that the removal takes place due to a development related to the project Rio Olympic City, often the data is concealed by other justifications . . .”).

³² *Id.*

³³ *Right to Housing at Risk as Brazil Prepares for World Cup and Olympics – UN Expert*, U.N. NEWS CTR. (Apr. 26, 2011), <http://www.un.org/apps/news/story.asp?NewsID=38189#.VqZcvVMrKb9>.

³⁴ *Brazil Off-Course for World Cup and Olympics – UN Housing Expert*, U.N. OFFICE OF THE HIGH COMM’R FOR HUMAN RIGHTS (Apr. 26, 2011), <http://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10960&LangID=E>.

Plan.”³⁵ The Legacy Plan would ensure that governmental projects made in connection with the 2016 Rio Olympics and the World Cup would adhere to basic human rights guidelines, especially with regard to environmental and housing concerns.³⁶

However, a Legacy Plan on par with the human rights responsibilities voluntarily assumed by the government of Brazil has yet to be adequately enforced. Instead, a culture of habitual disregard for both formal legal procedure and the fundamental entitlements of Brazilian citizens is being perpetuated by administrative bodies exercising an abuse of discretion upon the nation’s most vulnerable citizens in furtherance of the lucrative mega-sporting events.³⁷ Four substantive projects in particular are producing the most damage to the housing environment in Brazil, namely, transportation projects such as roads and corridors for the Bus Rapid Transits³⁸ Transcarioca, Transoeste, and Transolímpica, the construction or renovation of several sporting facilities, “revitalization” of urban areas in the harbor area, and the designation of “risky areas” as well as those constituting an “environmental interest.”³⁹ These developments, and their impacts, will be discussed in turn.

First, the road works projects for the construction of Bus Rapid Transits (BRTs) are causing widespread damage to private ownership in Brazil.⁴⁰ Of the three primary BRTs, the Transcarioca is perhaps the most significant. This BRT spans over twenty-seven districts, extending its reach from the Tom Jobim International Airport to the district of Barra da Tijuca.⁴¹ The estimated financial cost of this project in Brazilian Real, the domestic currency, amounts to more than R\$300 million.⁴² In terms of the human cost, this can be equated to the eviction and the infringement upon the property rights of more than 3,000 within the first phase of construction.⁴³ Individuals residing on the property desired by the government and private construction companies who did not accept alternate housing proposed by the acting agency, which often required a relocation of more than 60 kilometers, were often given nominal compensation.⁴⁴ In some instances, the insufficiency of the compensation resulted in homelessness.⁴⁵ The Transoeste BRT similarly required the evacuation of 530 families, some of

³⁵ *Right to Housing at Risk as Brazil Prepares for World Cup and Olympics – UN Expert*, *supra* note 33.

³⁶ *Brazil Off-Course for World Cup and Olympics – UN Housing Expert*, *supra* note 34; *see also Brazil: Championing Football... But What About Housing Rights?*, U.N. OFFICE OF THE HIGH COMM’R FOR HUMAN RIGHTS: S. AM. REGIONAL OFFICE (June 14, 2013), <http://acnudh.org/en/2013/06/brazil-championing-football-but-what-about-housing-rights/>.

³⁷ Elena Hodges, *Popular Committee Launches Third Human Rights Violations Dossier*, RIOONWATCH (June 15, 2014), <http://www.rioonwatch.org/?p=15972>.

³⁸ *Id.*

³⁹ RIO DE JANEIRO DOSSIER, *supra* note 30, at 21, 25–26.

⁴⁰ *Id.* at 21.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.* “Several reports by the press point out that over 3,000 families were affected on the first phase of Transcarioca, including, in these numbers, the expropriation of fully documented properties.” *Id.*

⁴⁴ *Id.* at 22. “It was . . . marked by many violations and much psychological pressure, with threats that, if they did not accept an apartment from the MCMV Programme in Cosmos, 60km away from their community, they would lose everything. Residents who did not accept the apartment received negligible compensations, and there are reports, by more than one witness, of compensation being paid with bags of money after direct negotiations with the construction company responsible for the development.” *Id.*

⁴⁵ *Brazil Off-Course for World Cup and Olympics – UN Housing Expert*, *supra* note 34.

which sought legal assistance from the State Public Defence Office of Rio de Janeiro.⁴⁶ Finally, the construction of the Transolímpica BRT was subject to internal governmental scrutiny; the State Public Ministry called particular attention to the questionable analysis of impacts on the environment, the “social cost” of the project, and the lack of general communication regarding the operation.⁴⁷

In addition to those issues posed by the BRTs, Brazilian construction and renovation projects in preparation for the games significantly impact the property rights of Rio de Janeiro’s citizens.⁴⁸ One primary example is the mass eviction of nearly the entire Metrô Manguiera community from the vicinity of the Maracanã Stadium, the forum for the 2016 Summer Olympics in Rio.⁴⁹ The first groups to accept a relocation proposal by the government were transferred to a housing complex nearly seventy kilometers away from their original homes.⁵⁰ This action generated severe public resistance, which in turn placed enough pressure on the City Hall of Rio de Janeiro to redirect the resettling families to a more convenient locale adjacent to their former homes.⁵¹ In Vila Autódromo, an area subject to increased governmental interest throughout its establishment, many residents have initiated strong resistance measures against the taking of their property for the construction of a new media center.⁵² Three decrees of expropriation have been issued as of November 2015, but are currently subject to a legal dispute between the Public Defence Office of Rio de Janeiro and the councilors at the City Council as to their substantive validity.⁵³

The urban renovation projects in the harbor area spans over forty-three kilometers of streets, implicates 700 kilometers of underground infrastructure, five kilometers of tunnels, and has received more than 2.5 billion in investments through public and private partnerships.⁵⁴ The local government officials offer several justifications for the intensity of this project. First, the City Hall of Rio De Janeiro had formerly abandoned a sizable portion of the area, leaving a multitude of empty government buildings that many homeless persons used for shelter.⁵⁵ The State Public Defence Office protested some of the proposed renovations and deconstructions, including the devastation of the historic Morro da Providência for the construction of a cable car site for a notable lack of Environmental Impact Assessments (EIAs) or Environmental Impact Studies (EISs).⁵⁶ Human rights organizations and concerned residents have objected to this attempt at an expedited taking of the harbor area, and activist architects and

⁴⁶ RIO DE JANEIRO DOSSIER, *supra* note 30, at 21.

⁴⁷ *Id.* at 22.

⁴⁸ Lourdes Garcia-Navarro, *As Brazil Gears Up For Olympics, Some Poor Families Get Moved Out*, NPR (Feb. 27, 2014), <http://www.npr.org/sections/parallels/2014/02/27/276514012/as-brazil-gears-up-for-olympics-some-poor-families-get-moved-out>.

⁴⁹ RIO DE JANEIRO DOSSIER, *supra* note 30, at 26.

⁵⁰ *Id.*

⁵¹ *Id.* Some still remain in the original location, among the demolished homes and debris awaiting further bureaucratic action. *Id.*

⁵² *Id.* at 27.

⁵³ *Id.* at 28.

⁵⁴ Julia Carneiro, *Rio’s Harbor Redevelopment Divides Opinion*, BBC BRASIL (Jan. 9, 2015), <http://www.bbc.com/news/world-latin-america-30707802>.

⁵⁵ RIO DE JANEIRO DOSSIER, *supra* note 30, at 29.

⁵⁶ *Id.*

engineers have drafted reports countering those submitted by the government, asserting that a majority of the homes scheduled for demolition were not at risk or did not implicate the project.⁵⁷ There is some concern that the administration of Rio de Janeiro is attempting to unethically “beautify” its city prior to the Olympics through the systematic displacement of an already marginalized community.⁵⁸

Finally, the frequent designation of areas that constitute an “environmental interest” to the Brazilian government continues to be of concern for human rights organizations.⁵⁹ Some associations, such as the local Resident’s Association in Estradinha (Tabajaras community), have taken issue with the technical basis of the designations and have produced their own contrary reports.⁶⁰

Taken together, the preceding facts suggest a plethora of human rights violations on the part of both the government of Brazil and the IOC. The following section will detail the responsibilities of each institution, with an emphasis on the host nations, as well as analyze whether the current initiatives undertaken by the state and the IOC are compliant with their obligations in international, regional, and domestic law.

B. Responsibilities of the Brazilian Government

1. International Human Rights Law

i. Universal Declaration of Human Rights Law

The Universal Declaration of Human Rights (UDHR) outlines a general obligation to ensure adequate housing for citizens of State signatories in Article 25 of its text: “(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, *housing*.”⁶¹ Brazil voted in favor of the UDHR in December of 1948, thus aligning itself to the ideals expressed in the document.⁶² Though the UNDR is lacking specific terms for implementation, the United Nations (UN) has undertaken a number of initiatives that impart content in the right to adequate housing as initially articulated in this instrument.⁶³

⁵⁷ *Id.* at 30.

⁵⁸ Carneiro, *supra* note 54.

⁵⁹ RIO DE JANEIRO DOSSIER, *supra* note 30, at 32.

⁶⁰ *Id.* at 32–33.

⁶¹ UDHR, *supra* note 21, art. 25(1) (emphasis added). Though the UN Charter does not specifically aver to a particular right to housing, the document nevertheless embodies dedication to “fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.” U.N. Charter pmbl. In the debates leading up to the formulation of the UDHR, the representatives of Brazil insisted that the UN Charter had placed positive legal obligations on party States to uphold international human rights through this affirmation. 1948–49 U.N.Y.B. 527, U.N. Sales No. 1950.I.II [hereinafter U.N.Y.B.]

⁶² U.N.Y.B., *supra* note 61, at 535.

⁶³ See generally Human Rights Council Res. 13/10, U.N. Doc. A/HRC/Res/13/10 (Apr. 14, 2010) [hereinafter H.R.C. Res. 13/10]; THE HUMAN RIGHT TO ADEQUATE HOUSING: FACT SHEET NO. 21/REV.1, U.N. OFFICE OF THE HIGH COMM’R FOR HUMAN RIGHTS (May 2014), http://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf.

First, the UN Human Rights Commission has drafted and subsequently ratified Resolution A/HRC/RES/13/10.⁶⁴ Along with affirmatively noting the work of the Special Rapporteur on Housing during mega-sporting events, this Resolution articulates specific actions to be taken by member States of the UN in keeping with their obligations to uphold the core content of the right to housing; that is, human dignity.⁶⁵ In the context of mega-events, the UN Human Rights Commission calls upon the States, among other responsibilities:

- (a) To integrate housing concerns into the bidding and planning process at an early stage and . . . to assess the impact on the affected population throughout the process, as appropriate;
- (b) To ensure full transparency . . . and the meaningful participation of the affected local communities therein;
- (c) To pay particular attention to persons belonging to vulnerable and marginalized groups . . . ;
- (d) To plan and develop the event venues with the post-event period in view, while taking into account the needs of socially disadvantaged persons for affordable housing;
- (e) To ensure, consistent with . . . international human rights obligations, that the right to adequate housing of affected persons in the context of mega-events is respected⁶⁶

The former Special Rapporteur on the Right to Housing, Raquel Rolnik, has also produced numerous recommendations for State parties on the preservation of the human right to adequate housing during mega-sporting events.⁶⁷ Namely, the recommendations call for full legal security of tenure for all parties, abstention from forced evictions or harassment in connection with the deprivation of private property, sufficient compensation for the taking of real property and programs for reasonable relocation, an assessment of impacts any proposed project will have on residential areas, the facilitation of open dialogue between the government and affected families, adherence to General Comment No. 4 and General Comment No. 7 on the Right to Adequate Housing produced

⁶⁴ H.R.C. Res. 13/10, *supra* note 63.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Raquel Rolnik (Special Rapporteur on Right to Housing), *Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context*, U.N. Doc. A/HRC/19/53 (Dec. 26, 2011). Brazil also has a domestic version of the United Nations' Special Rapporteurs; called "National Rapporteurs on Economic, Social, and Cultural Rights," these specialists endeavor to monitor the health, food, labor, environment, and adequate housing human rights situations in Brazil in order to ensure consistency with the Federal Constitution, the National Program on Human Rights, the ICESCR, and the International Covenant on Civil and Political Rights. For further discussion, see U.N. HUMAN SETTLEMENTS PROGRAMME, LAND TENURE, HOUSING RIGHTS, AND GENDER IN BRAZIL 38–39 (2005).

by the Committee on Economic, Social, and Cultural Rights,⁶⁸ and appropriate monitoring of third parties, such as private construction companies, throughout the specific mega-event, among other substantive obligations.⁶⁹

On the majority of the provisions listed, it is apparent that Brazil is not adequately in keeping with its duties as an active member of the UN.⁷⁰ First, the State is failing to undergo continuous impact assessments of the Olympian projects on the marginalized communities residing in both the harbor area and Barra da Tijuca, the district affected by the construction of the Transcarioca BRT, and is thus disproportionately harming the residents of these areas through both unnecessary relocation and inadequate compensation.⁷¹ Further, the lack of communication, as noted by former Special Rapporteur Raquel Rolnik,⁷² also presents a considerable problem in the assurance of full devotion to the principles articulated in the UNDR and the subsequent resolutions adopted by the General Assembly.⁷³ Without the transparency that is facilitated through open, engaged dialogue, it is difficult to fully assess the impact of each project on the multitude of residents in the area. Finally, as will be discussed in the proceeding section, Brazil is also failing to appropriately observe applicable international human rights instruments in their projects relating to construction and expansion for the 2016 Summer Games.⁷⁴

ii. *International Covenant on Economic, Social, and Cultural Rights*

The International Covenant on Economic, Social, and Cultural Rights,⁷⁵ adopted by the General Assembly of the UN in 1966 and ratified by Brazil in 1992,⁷⁶ imposes both negative and positive obligations on Party States in furtherance of securing basic human rights through the general assurance of effective accommodation, an equal access to available resources, adequate representation, and dedication to fundamental principles of equality.⁷⁷ As signatories to the Covenant, the States must align their conduct to comply with the fundamental aspects of the document through a concentrated effort to “undertake[] to take steps, individually and through international assistance and co-operation . . . to the maximum of its available resources... to achieve[] progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”⁷⁸ Further, the party States are also specially obligated to ensure the rights enumerated within the Covenant “without discrimination of any kind as

⁶⁸ See *infra* notes 84–91 and accompanying text.

⁶⁹ Raquel Rolnik, *supra* note 67, at 12.

⁷⁰ U.N.Y.B., *supra* note 61, at 527.

⁷¹ RIO DE JANEIRO DOSSIER, *supra* note 30, at 22, 29.

⁷² *Brazil Off-Course for World Cup and Olympics – UN Housing Expert*, *supra* note 34.

⁷³ See generally UNDR, *supra* note 21, at art. 25; H.R.C. Res. 13/10, *supra* note 63.

⁷⁴ See ICESCR, *supra* note 21, art. 11; see also ICCPR *supra* note 21, art. 17.

⁷⁵ See ICESCR, *supra* note 21.

⁷⁶ *Status of Ratification Interactive Dashboard*, U.N. OFFICE OF THE HIGH COMM’R OF HUMAN RIGHTS, <http://indicators.ohchr.org/> (select Brazil in the dropdown menu).

⁷⁷ See ICESCR, *supra* note 21. Brazil, however, has not ratified the Optional Protocol to the ICESCR, which is the supplementary complaints submission procedure under the document. *Status of Ratification Interactive Dashboard*, *supra* note 76. See generally G.A. Res. 63/117 (Mar. 5, 2009).

⁷⁸ ICESCR, *supra* note 21, art. 2(1) (emphasis added).

to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”⁷⁹ Unlike some international instruments—such as Convention No. 111 of the International Labor Organization, which includes a set list of bases for impermissible discrimination—the ICESCR prohibits discrimination on any articulable basis.⁸⁰

With respect to the right to adequate housing, Article 11 of the ICESCR requires that all ratifying Party States “recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and *housing*, and to the continuous improvement of living conditions.”⁸¹ Furthermore, the accomplishment of this right must be pursued through “appropriate steps . . . recognizing to this effect the essential importance of international co-operation based on free consent.”⁸² This Article recognizes the importance of the right to housing through imposing both an ongoing obligation to maintain this entitlement, and an ideal of collaboration among all international actors in the assurance of the right.⁸³

The substance of Article 11 of the ICESCR was further developed by the UN Committee on Economic, Social, and Cultural Rights in General Comment No. 4 on the right to housing generally⁸⁴ and General Comment No. 7 concerning the issue of forced evictions.⁸⁵ Through the explanations and understandings expressed by the Committee in these interpretive General Comments, it may be understood that the right to housing may be described as a multifaceted entitlement containing both affirmative obligations and aspects that require a certain degree of noninterference by a governing body.⁸⁶ Such affirmative obligations include, among other guarantees not applicable to the subject of this paper, security of tenure, appropriate restitution for any housing, land, or property takings, and an assured participation for those affected by decisions related to housing at both the regional and national levels.⁸⁷ Freedoms afforded by the right to adequate housing include the protection from “arbitrary”⁸⁸ or illegal forced evictions, privacy and integrity of the home, including both governmental and private restraint from unjustified demolitions, and the potential to choose one’s place of residence without restriction.⁸⁹

⁷⁹ *Id.* at art. 2(2).

⁸⁰ Compare Convention (No. 111) Concerning Discrimination in Respect of Employment and Occupation, arts. 2 & 3, June 15, 1958, 362 U.N.T.S. 31, with ICESCR, *supra* note 21, art. 2(2).

⁸¹ ICESCR, *supra* note 21, art. 11(1) (emphasis added).

⁸² *Id.*

⁸³ *Id.*

⁸⁴ See U.N. Comm. on Econ., Soc. & Cultural Rights, *General Comment No. 4, The Right to Adequate Housing (art 11(1))*, 6th Sess., U.N. Doc. E/1992/23 (1991) [hereinafter *CESCR General Comment 4*].

⁸⁵ See U.N., Comm. on Econ., Soc., & Cultural Rights, *General Comment No. 7, The Right to Adequate Housing (art. 11(1))*, 16th Sess., U.N. Doc. E/1998/22, annex IV (1997) [hereinafter *CESCR General Comment 7*].

⁸⁶ See generally *CESCR General Comment 4*, *supra* note 84; *CESCR General Comment 7*, *supra* note 85; THE HUMAN RIGHT TO ADEQUATE HOUSING: FACT SHEET NO. 21/REV.1, *supra* note 63, at 3.

⁸⁷ See *CESCR General Comment 4*, *supra* note 84, at ¶ 8(a), 12 & 17; *CESCR General Comment 7*, *supra* note 85, at ¶ 13; see also THE HUMAN RIGHT TO ADEQUATE HOUSING: FACT SHEET NO. 21/REV.1, *supra* note 63, at 3.

⁸⁸ *CESCR General Comment 7*, *supra* note 85, at ¶ 3.

⁸⁹ *Id.* at ¶ 8; *CESCR General Comment 4*, *supra* note 84, at ¶ 9. See THE HUMAN RIGHT TO ADEQUATE HOUSING: FACT SHEET NO. 21/REV.1, *supra* note 63, at 3, for further discussion. In 2008, the government of Brazil produced information on their performance concerning these rights and obligations in their

On the face of these multilayered obligations, it is apparent that the government of Brazil is in violation of its responsibilities under the ICESCR through a substantive regression in the provision of the right to housing. First, Brazil is failing to actively and adequately “undertake”⁹⁰ to ensure the unimpeded right to adequate housing to the maximum extent possible with its available resources.⁹¹ This assertion is substantiated through the methodical displacement of several families in the process of construction for Olympic fixtures.⁹² Whereas the right to adequate housing had been guaranteed to those affected prior to the initiation of these projects, the government of Brazil then took affirmative action to deprive the victims of this entitlement through enforcing displacement with insufficient accommodations or compensation.⁹³ In addition, Brazil is disproportionately enforcing the right to adequate housing—that is, engaging in habitual discrimination in the guarantee of the right—through its noted targeting of low-income households and homeless persons in its harbor areas.⁹⁴ Further, the insufficiency of the housing at relocation sites goes to the heart of Article 11 of the ICESCR, as well as its derivative General Comments; there is a clear lack of security in tenure, appropriate restitution, or any concerted effort to involve those affected in an open conversation.⁹⁵ Taken together, the actions of the government of Brazil are in clear contradiction to the nation’s responsibilities under the ICESCR.⁹⁶

However, Brazil may articulate several defenses for the aforementioned activities on behalf of its government. Under Article 4 of the Covenant, a Party State may in certain circumstances place certain limitations on an otherwise directly enforceable right.⁹⁷ Specifically, such limitations must be “compatible” with the nature of both the right affected and the other rights provided within the ICESCR, and must be “solely for the purpose of promoting general welfare in a democratic society.”⁹⁸ Brazil may argue that its efforts to provide compensation and new housing for families forced to relocate is compatible with the respect for human dignity required by Article 11 of the Covenant and the guidelines articulated in General Comment 4 and General Comment 7.⁹⁹ Furthermore, Brazil may argue that the lucrative nature of the mega-sporting events justifies the affront to the right to housing and is aligned to the general welfare for the

Second Periodic Report to the CESCR. These reports are due once two years upon the State Party’s initial accession to the instrument, and then every five years thereafter. *See ICESCR supra* note 21, arts. 16–17.

⁹⁰ *ICESCR, supra* note 21, art. 2(1).

⁹¹ *Id.*; *see also* RIO DE JANEIRO DOSSIER, *supra* note 30, at 22, 29.

⁹² *See* RIO DE JANEIRO DOSSIER, *supra* note 30, at 20.

⁹³ *Id.* at 21–25.

⁹⁴ Carneiro, *supra* note 54.

⁹⁵ *ICESCR, supra* note 21, at art. 2(1). *See generally* CESCR General Comment No. 4, *supra* note 84; CESCR General Comment 7, *supra* note 85; RIO DE JANEIRO DOSSIER, *supra* note 30, at 21–22.

⁹⁶ *See generally* ICESCR, *supra* note 21.

⁹⁷ *Id.* at art. 4.

⁹⁸ *Id.*

⁹⁹ *Id.*; *see* CESCR General Comment No. 4, *supra* note 84, at ¶ 6; *see also* CESCR General Comment No. 7, *supra* note 85, at ¶ 13 (“States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders. States parties shall also see to it that all the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected.”).

economic boost it will provide the nation—in 2014, the Sochi Winter Games generated more than \$53 million USD in profits.¹⁰⁰ In this time of economic uncertainty, in which the manufacturing sector has taken a substantive hit, revenue generated from the 2016 Summer Games would be an invaluable asset.¹⁰¹

This defense, though reasonable, is not likely to be sustained. The remedial actions taken by the government of Brazil, including compensation and relocation, are inadequate and not consistent with the full spirit of the ICESCR.¹⁰² Though the State is endeavoring to provide compensation and alternative housing to those deprived of their former homes, this alone does not satisfy its obligations under the Covenant.¹⁰³ Such remedies *must* be adequate, reasonable, and generate the least impact on the enjoyment of the right to adequate housing.¹⁰⁴ In addition, the anticipated economic boost may not be substantiated in fact, for three primary reasons. First, the Olympic Games have recently been the object of criticism for their recent decrease in revenue for host cities and host states more broadly.¹⁰⁵ This may be attributed to a multitude of factors, such as unanticipated costs exceeding the allocated budget and the disutility of venues constructed for niche sports following the Games.¹⁰⁶

Second, the recent outbreak of the Zika virus in Brazil may create a massive disincentive for international spectators to attend the Games.¹⁰⁷ Recently, the World Health Organization (WHO) declared the spread of this disease a “global health emergency”—officials of the organization equated the severity of the outbreak to the recent Ebola epidemic¹⁰⁸ that killed over 11,000 individuals in Guinea, Sierra Leone, and Liberia alone.¹⁰⁹ The Zika virus is spread via the bite of infected mosquitos; when a pregnant woman is bitten and subsequently contracts the virus, there is a high likelihood that the child will either be born with microcephaly,—a condition in which children are born with abnormally small heads—or that the virus will spread to the brain of the fetus, causing miscarriage.¹¹⁰ The United States Center for Disease Control has issued a Level

¹⁰⁰ *Sochi Games Made \$53 Million Profit*, REUTERS (Feb. 26, 2015), <http://www.reuters.com/article/us-olympics-sochi-profit-idUSKBN0LU2KR20150226>.

¹⁰¹ *See Brazil Manufacturing Shrinks for Seventh Straight Month*, REUTERS (Sept. 1, 2015), <http://www.reuters.com/article/us-brazil-economy-pmi-idUSKCN0R13XV20150901>.

¹⁰² *See generally* RIO DE JANEIRO DOSSIER, *supra* note 30.

¹⁰³ ICESCR *supra* note 21, at art. 11.

¹⁰⁴ *See CESCR General Comment No. 7, supra* note 85, at ¶ 13.

¹⁰⁵ Tony Manfred, *The World is Realizing That Hosting the Olympics is a Waste*, BUS. INSIDER (July 28, 2015), <http://www.businessinsider.com/olympics-entering-new-era-of-host-cities-2015-7>.

¹⁰⁶ *Id.* For further discussion concerning the economic impact of the Olympic Games, see ANDREW ZIMBALIST, CIRCUS MAXIMUS: THE ECONOMIC GAMBLE BEHIND HOSTING THE OLYMPICS AND THE WORLD CUP, at 1–7 (2nd ed., 2015); Binyamin Appelbaum, *Does Hosting the Olympics Actually Pay Off?*, N.Y. TIMES MAG., Aug. 5, 2014, at MM14.

¹⁰⁷ *See Brazil Zika Outbreak: More Babies Born with Birth Defects*, BBC (Jan. 21, 2016), <http://www.bbc.com/news/world-latin-america-35368401>.

¹⁰⁸ Michelle Roberts, *Zika Linked Condition: WHO Declares Global Emergency*, BBC (Feb. 1, 2016), <http://www.bbc.com/news/health-35459797>; *see also* Sabrina Tavernise & Donald G. McNeil, Jr., *Zika Virus is a Global Health Emergency*, W.H.O. SAYS, N.Y. TIMES (Feb. 1, 2016), <https://nyti.ms/2jYMca8>.

¹⁰⁹ *See 2014 Ebola Outbreak in West Africa – Case Counts*, CTR. FOR DISEASE CONTROL, <http://www.cdc.gov/vhf/ebola/outbreaks/2014-west-africa/case-counts.html> (last updated Apr. 13, 2016).

¹¹⁰ *Brazil Zika Outbreak: More Babies Born with Birth Defects, supra* note 107 (“Brazil is experiencing the largest known outbreak of Zika . . . there have been 3,893 suspected cases of microcephaly since October, when the authorities first noticed a surge, up from 3,500 in last week’s

2 (“Practice Enhanced Precautions”) travel alert for pregnant women, advising them to consider postponing travel plans until the Zika outbreak is properly controlled.¹¹¹

Finally, there is the issue of poor water quality in Rio de Janeiro, which has already caused several athletes training in the vicinity to fall ill.¹¹² Severe pollution permeates the majority of waterways to be used for aquatic sports.¹¹³ Though Brazil has promised to assume responsibility for cleaning up the toxins in its water via an installment of water treatment facilities, journalists have expressed skepticism that these efforts will produce satisfactory results by the 2016 Olympics.¹¹⁴ For these reasons, it may not be tenable to hold that the Summer Games will be as lucrative as anticipated, and therefore not in line with the general welfare as required by the ICESCR.¹¹⁵

Next, Brazil may assert that this is a “deliberately retrogressive measure” as defined by the General Comment 3.¹¹⁶ In the event a Party State considers the implementation of such a policy that would contravene its obligation to progressively realize the right, it must undergo the “most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources.”¹¹⁷ For reasons identical to those discussed in the refutation of Brazil’s “permissible limitation” defense, it is unlikely that Brazil’s deprivation of housing may be considered in line with other guaranteed entitlements in the Covenant.¹¹⁸ These actions are not consistent with Brazil’s ongoing commitment to the progressive realization of the right to adequate housing, which, in tandem with all other economic, social, and cultural rights enunciated within the ICESCR, must be pursued “as expeditiously and effectively as possible.”¹¹⁹

report.”); see also Simon Romero & Rebecca R. Ruiz, *Researchers Weigh Risks of Zika Spreading at Rio Olympics*, N.Y. TIMES (Jan. 28, 2016), <https://nyti.ms/2GMidvK>.

¹¹¹ CDC *Issues Interim Travel Guidance Related to Zika Virus for 14 Countries and Territories in Central and South America and the Caribbean*, CTR. FOR DISEASE CONTROL (Jan. 15, 2016), <http://www.cdc.gov/media/releases/2016/s0315-zika-virus-travel.html>.

¹¹² Thomas Barrabi, *Rio Olympics 2016: Water Pollution, Viral Testing to be Addressed by Next Summer*, *Official Says*, INT’L BUS. TIMES (Sept. 2, 2015), <http://www.ibtimes.com/rio-olympics-2016-water-pollution-viral-testing-be-addressed-next-summer-official-2079507>. This includes Olympic sailor Eric Hiel, who was treated for MRSA, a flesh-eating bacteria, following an Olympic testing event. Brad Brooks, *AP Test: Olympic Water Badly Polluted, Even Far Offshore*, AP (Dec. 2, 2015), <http://bigstory.ap.org/article/cabd453515244bf2b1063e15f6b680c9/ap-test-rio-olympic-water-badly-polluted-even-far-offshore>.

¹¹³ See Barrabi, *supra* note 112.

¹¹⁴ *Id.*

¹¹⁵ ICESCR *supra* note 21, at art. 2(1).

¹¹⁶ UN Comm. on Econ., Soc. & Cultural Rights, *General Comment No. 3: The Nature of States Parties’ Obligations* (art. 2, ¶ 1), at ¶ 9, 5th Sess., U.N. Doc. E/1991/23 (Dec. 14, 1990) [hereinafter CESCR, *General Comment No. 3*].

¹¹⁷ *Id.*

¹¹⁸ See *supra* text accompanying notes 102–115.

¹¹⁹ CESCR, *General Comment No. 3*, *supra* note 116, at ¶ 9. Brazil may have an additional defense in stating that this is a mere step towards the full realization of the right to adequate housing, and such flexibility is recognized by Article 2(1) of the Covenant. However, this is again an unlikely defense, as Brazil’s egregious conduct constitutes an intentional deprivation of the right, or a retrogressive action, as opposed to a progressive guarantee. ICESCR, *supra* note 21, at art. 2(1).

The proceeding section will consider Brazil's continuing obligations with regard to the right to adequate housing under applicable regional human rights instruments.

2. Regional Human Rights Law

i. *The Organization of the American States*

The Organization of the American States (OAS) is an intercontinental organization dedicated to the preservation of regional cooperation and solidarity.¹²⁰ In addition to these primary objectives, the OAS has also dedicated itself to the respect and fulfillment of the human personality through its promotion of fundamental rights in the 1948 Charter of the OAS,¹²¹ the American Declaration on the Rights and Duties of Man,¹²² and the American Convention of Human Rights.¹²³ Brazil immediately committed to the principles articulated within the OAS Charter and the American Declaration, thereby vowing to uphold the core values of each document as an original member; it later ratified American Convention in 1992.¹²⁴ Two internal bodies¹²⁵ are tasked with upholding the human rights initiatives expressed within the founding documents: the Inter-American Commission on Human Rights,¹²⁶ and the Inter-American Court of Human Rights.¹²⁷ The Inter-American Commission, made up of seven independent experts and centered in Washington, D.C., is engaged in three primary tasks: (1) the receipt of individual petitions; (2) periodic monitoring of the human right climate in Member States of the OAS; and (3) devotion to thematic human rights problems, such as gender equality and suppression of free and peaceful expression.¹²⁸ The Inter-American Court acts as an “autonomous judicial institution whose purpose is the application and interpretation of the American Convention on Human Rights.”¹²⁹

¹²⁰ *Who We Are*, ORG. OF AM. STATES, http://www.oas.org/en/about/who_we_are.asp (last visited Oct. 14, 2017).

¹²¹ *See generally* Charter of the Organisation of American States [OAS], art. 34(k) (Apr. 30, 1948) [hereinafter OAS Charter].

¹²² Inter-American Commission on Human Rights [IACHR], American Declaration of the Rights and Duties of Man, at art. 11 (May 2, 1948) [hereinafter American Declaration].

¹²³ Org. of Am. States, American Convention on Human Rights, “Pact of San Jose, Costa Rica”, at art. 11(2) (Nov. 22, 1969) [hereinafter American Convention].

¹²⁴ *Organization of American States (OAS)*, NUCLEAR THREAT INITIATIVE, <http://www.nti.org/treaties-and-regimes/organization-american-states-oas/> (last updated Jan. 31, 2018); *see also American Convention on Human Rights “Pact of San Jose, Costa Rica” (B-32)*, ORG. OF AM. STATES, http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights_sign.htm (last visited Jan. 20, 2018).

¹²⁵ *What is the IACHR?*, ORG. OF AM. ST., <http://www.oas.org/en/iachr/mandate/what.asp> (last visited Jan. 20, 2018) (often collectively referred to as the “IAHRS”).

¹²⁶ *Inter-American Commission on Human Rights*, ORG. OF AM. STATES, http://www.oas.org/en/about/commission_human_rights.asp (last visited Jan. 20, 2018).

¹²⁷ *Human Rights*, ORG. OF AM. STATES, http://www.oas.org/en/topics/human_rights.asp (last visited Jan. 20, 2018).

¹²⁸ *What is the IACHR?*, *supra* note 125.

¹²⁹ Org. of Am. States, Statute of the Inter-American Court of Human Rights, G.A. Res. 448, at art. 1 (Oct. 1979).

In relation to the right to adequate housing, the founding documents of the OAS are quite general.¹³⁰ The Charter of the OAS states that:

The Member States agree that equality of opportunity, the elimination of extreme poverty, equitable distribution of wealth and income and the full participation of their peoples in decisions relating to their own development are, among others, basic objectives of integral development. To achieve them, they likewise agree to devote their utmost efforts to accomplishing the following basic goals:

. . . .

k) Adequate housing for all sectors of the population.¹³¹

Article 23 of the American Declaration further recognizes that “[e]very person has a right to own such private property as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home.”¹³² It frames the obligation to provide basic housing as the “right to the preservation of health and to well-being,”¹³³ and further ascribes that “[e]very person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, *housing* and medical care, to the extent permitted by public and community resources.”¹³⁴

The Inter-American Court has developed some content for this right in their adjudication of the *Ituanga Massacres v. Colombia* case.¹³⁵ Brought by two nongovernmental organizations (NGOs) against paramilitary groups associated with the Colombian government, this case concerned extreme levels of violence exercised against the residents of both the La Granja and El Aro Districts within the Ituanga municipality.¹³⁶ Paramilitary groups were found to have violated the right to adequate housing through intentional and concentrated interference to the right, including forced evictions and destruction of property.¹³⁷ The court further noted that other “grave and unjustified interference in private and family life”¹³⁸ amounted to an unqualified abuse of human dignity.¹³⁹

¹³⁰ OAS Charter, *supra* note 121, at art. 34(k); American Declaration, *supra* note 122, at art. 11. The Pact of San Jose speaks somewhat to the right to housing, but mainly in the context of civil and political liberties. Namely, “[n]o one may be the object of arbitrary or abusive interference with his private life, his family, his home, or his correspondence, or of unlawful attacks on his honor or reputation.” As this is the extent of this particular document’s devotion to the right to adequate housing, it will not be discussed further in this paper. American Convention, *supra* note 123, at art. 11(2)

¹³¹ OAS Charter, *supra* note 121, at art. 34(k).

¹³² American Declaration, *supra* note 122, at art. 23.

¹³³ American Declaration, *supra* note 122, at art. 11.

¹³⁴ *Id.* (emphasis added).

¹³⁵ *The Ituango Massacres v. Colombia*, Series C No. 148, Inter-Am. Comm’n H.R. (2006); *see also* THE HUMAN RIGHT TO ADEQUATE HOUSING: FACT SHEET NO. 21/REV.1, *supra* note 63, at 43.

¹³⁶ *The Ituango Massacres v. Colombia*, *supra* note 135, at ¶ 3.

¹³⁷ *Id.* The paramilitary group was also involved in other egregious human rights offenses, including the violation of the right to life. *Id.*

¹³⁸ *Id.* at ¶196; *see also* THE HUMAN RIGHT TO ADEQUATE HOUSING: FACT SHEET NO. 21/REV.1, *supra* note 63, at 43.

¹³⁹ *The Ituango Massacres v. Colombia*, *supra* note 135, at ¶ 426.

Brazil's treatment of marginalized communities in its harbor area, as well as its insufficient relocation procedures, is not consistent with its human rights responsibilities as a member of the OAS.¹⁴⁰ Though its conduct does not amount to those violent actions undertaken by the Colombian government and its affiliates in the *Ituanga Massacres* case, even the peaceful ejection of persons from their homes without certain procedures nevertheless constitutes an unjust obstruction to the security of the right as described by the OAS Charter and the American Declaration.¹⁴¹ Specifically, Brazil's failure to take all precautions within its capacity to ensure the full respect of the right to housing during the 2016 Olympics is in conflict with its promise to employ its utmost efforts¹⁴² to pursue the right.

3. Domestic Instruments

ii. The Constitution of Brazil

The Brazilian Federal Constitution imparts certain core obligations on the part of the state concerning housing.¹⁴³ Most relevant to this paper are those acknowledgements and responsibilities outlined in Title II, regarding Fundamental Rights and Guarantees.¹⁴⁴ In Chapter 1, the Federal Constitution notes in Article 5 that “the home is the inviolable refuge of the individual, and no one may enter therein without the consent of the dweller, except in the event of *flagrante delicto* or disaster, or to give help, or, during the day, by court order.”¹⁴⁵ Article 6, as amended by Amendment 64, reads: “Education, health, food, work, *housing*, leisure, security, social security, protection of motherhood and childhood, and assistance to the destitute are social rights, as set forth by this Constitution.”¹⁴⁶

This clear recognition of the sacred nature of the home expressed within the Constitution suggests that the government of Brazil has knowledge of the effects of its destructive activities on the lives and welfare of its citizens.¹⁴⁷ Without taking serious measures to rectify the impact of Olympic projects on the property of its residents, the Brazilian government will be in grave violation of its promises enumerated within the Constitution to these individuals.¹⁴⁸

iii. Federal Statutes and Municipal Regulations

A controlling piece of domestic legislation, the Statute of the City, is also being disregarded in Brazil's expedited construction procedures.¹⁴⁹ This statute

¹⁴⁰ Carneiro, *supra* note 54.

¹⁴¹ American Declaration, *supra* note 122, at art. 11; OAS Charter, *supra* note 121, at art. 34(k).

¹⁴² OAS Charter, *supra* note 121, at art. 34.

¹⁴³ See generally CONSTITUIÇÃO FEDERAL [C.F.] [CONSTITUTION] (Braz.).

¹⁴⁴ *Id.* at tit. II, ch. 1, ch. 2.

¹⁴⁵ *Id.* at tit. II, ch. 1, art. 5(XI).

¹⁴⁶ *Id.* at tit. II, ch. 2, art. 6 (emphasis added).

¹⁴⁷ See generally *id.*

¹⁴⁸ *Id.*

¹⁴⁹ See E.CID.; see also INSTITUTO POLIS, THE STATUTE OF THE CITY: NEW TOOLS FOR ASSURING THE RIGHT TO THE CITY IN BRASIL (2002), <http://www.polis.org.br/uploads/916/916.pdf>.

mandates that those cities with more than 20,000 inhabitants draft and implement a “master plan” consistent with certain guidelines as well as employ appropriate rezoning efforts to stimulate urban development.¹⁵⁰ Cities were allowed a five-year “grace period” in which to shift from prior urban development plans or redevelop them in order to ensure consistency with the new statute.¹⁵¹ During this grace period, organizations have alleged that several ordinances passed by the City Council of Rio de Janeiro have been directed at real estate affected by the 2016 Summer Olympics.¹⁵² These ordinances have been connected to the forced evictions supposedly justified by environmental concerns, discussed in Section II(1) of this paper.¹⁵³ This abuse of the legislative vacuum created by the Statute of the City is in blatant contrast to the spirit of the statute, as well as contra to the general responsibilities of the Brazilian government.¹⁵⁴

C. Responsibilities of the International Olympic Committee

Vice President of the IOC John Coates has called the preparation for the Summer Games in Rio de Janeiro “the worst he’s ever seen.”¹⁵⁵ Citing an overall lack of communication between local and federal officials, problematic social issues, labor unrest, and security concerns, Vice President Coates called for an increased participation on the part of the IOC in the preparations for the Olympics.¹⁵⁶ A special task force has been deployed to assist Brazil in these challenging areas; however, they have done little to rectify the flagrant abuses of human rights.¹⁵⁷

Despite the insistence of the IOC, Brazil is not the only party implicated in the dearth of progress regarding the 2016 Summer Games. Former Special Rapporteur on the Right to Adequate Housing, Raquel Rolnik, produced a set of guidelines for the IOC and FIFA organizations in her Human Rights Council Report.¹⁵⁸ Though primarily persuasive, these guidelines exemplify the ideal practices to be followed by the major international sports organizations in order to ensure full observance of the right to adequate housing. At issue in this case are two provisions; namely, the obligation to determine “whether the actions of third parties envisaged in the projects of candidate cities are adequately regulated and do not allow deviations from housing standards,”¹⁵⁹ and to “consider mechanisms to monitor and evaluate compliance with these standards

¹⁵⁰ CITIES ALLIANCE, *THE CITY STATUTE OF BRAZIL: A COMMENTARY* 62 (2010).

¹⁵¹ *Id.*

¹⁵² Brian Mier, *More Forced Evictions in Rio de Janeiro: What Happened to the Statute of the City?*, CEPR (Jan. 13, 2014), <http://cepr.net/blogs/the-americas-blog/more-forced-evictions-in-rio-de-janeiro-what-happened-to-the-statute-of-the-city>.

¹⁵³ *Id.* “Furthermore, Mayor Eduardo Paes issued Decree N. 32080 on April 7, 2010, which authorizes forced evictions in all areas that the City Government decides are at risk for natural disasters.” *Id.*

¹⁵⁴ See generally CONSTITUIÇÃO FEDERAL [C.F.] [CONSTITUTION](Braz.), *supra* note 143; CITIES ALLIANCE, *supra* note 150.

¹⁵⁵ *Rio 2016: IOC Vice-President Says Preparations are ‘Worst’ Ever*, BBC (Apr. 29, 2014), <http://www.bbc.com/sport/olympics/27201384>.

¹⁵⁶ *Rio’s Olympic Preparations ‘Worst’ Ever, Says IOC’s Coates*, REUTERS (Apr. 29, 2014), <http://uk.reuters.com/article/uk-olympics-brazil-coates-idUKKBN0DF0IB20140429>.

¹⁵⁷ *Id.*

¹⁵⁸ Rolnik, *supra* note 67.

¹⁵⁹ *Id.* at ¶ 86.

by all relevant stakeholders involved in mega-events, investigate and sanction abuses and establish complaint procedures.”¹⁶⁰ In failing to adequately supervise Brazil’s activities throughout its ill-devised preparation and construction, the IOC has displayed little reverence for the Special Rapporteur’s basic recommendations.

In addition, the IOC has also disregarded its own internal standards. Agenda 21 on “Sport for Sustainable Development” requires that sports facilities be “built or converted so as to ensure their harmonious integration into the local context, whether natural or man-made, and in accordance with considerate planning of land use”¹⁶¹ and “increase involvement by the local population, improve the socio-economic and health benefits they derive from it, use less energy and fewer non-renewable resources, employ fewer dangerous products and release fewer polluting products into the air, water and soil. An environmental impact assessment will be conducted after the event.”¹⁶² The IOC’s disregard of its own mandates contributes to the culture of disrespect perpetuated by the most recent iterations of the Olympic Games.

CONCLUSION

Brazil is failing the citizens of Rio de Janeiro. Instead of vigorously pursuing the full vindication of the right to adequate housing throughout the tumultuous preparations for the 2016 Summer Games, violent displacement, illegal destruction of private property, and homelessness are perpetuated by the government through either concentrated action or refusal to intervene in offending third parties. Without referring back to principles of basic human dignity in future projects, Brazil risks forever impacting one of the most fundamental rights of its people.

¹⁶⁰ *Id.* at ¶ 89.

¹⁶¹ INT’L OLYMPIC COMM., SPORT & ENV’T COMM’N, OLYMPIC MOVEMENT’S AGENDA 21: SPORTS FOR SUSTAINABLE DEVELOPMENT 30 (1999), http://www.olympic.org/Documents/Reports/EN/en_report_300.pdf.

¹⁶² *Id.* at 30–31.