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# Counter Land-Grabbing by the Precariat: Housing Movements and Restorative Justice in Brazil

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**Abstract:** Social housing movements in Brazil, whose majority members are part of Brazil's precariat or lowest-income class, are courageously pressing for true urban reform in Brazil, whose old promise has been systematically delayed and subverted, even by some of those who were put in power to realize it. By occupying vacant and underutilized land and buildings, not only are these movements confronting neoliberalism in Brazil at a time of the model's highest level of hegemony in the country and the world, they are also unveiling the impossibility of the system to deliver sociospatial justice to the poor and are enacting an alternative. Through restorative justice practices, they go beyond critique and press for an alternate sociopolitical project that would allow millions of people in Brazil access to decent housing, and through it, to a myriad of other opportunities, including the right to the city. As shown in the experiences of those participating in housing struggles, restorative justice deserves further exploration as an alternative planning mode that can combine the strengths of advocacy planning and communicative action while reducing their drawbacks. These reflections focus on the *Movimento dos Trabalhadores Sen Teto* (MTST) and partially feed from team ethnographic and planning studio work on several building and land occupations in Rio de Janeiro and São Paulo in Brazil in 2016.

**Keywords:** land grabbing; precariat; social movements; housing; restorative justice; Brazil

## 1. Introduction

A large group of members of the Brazil's precariat or lowest income class, politically organized in social housing movements, are courageously pressing for a true urban reform in Brazil. The promise of the Brazilian urban reform movement of the 1980s delivered important accomplishments [1,2] among them, new progressive institutions, laws, and citizen participation mandates and mechanisms. However, the full realization of its aspirations—the right to the city for all in Brazil—has been systematically delayed and/or subverted, even by some of those who were put in power to realize it, such as elected officials from the *Partido dos Trabalhadores* (Workers' Party, PT).

By occupying vacant and underutilized land and buildings in and around Brazilian cities, not only are the social housing movements' unsung heroes/heroines confronting neoliberalism in Brazil at a time of the model's highest level of hegemony in the country and the world [3], the movements are also unveiling the impossibility of the neoliberal system to deliver sociospatial justice to the poor and enacting an alternative. Through restorative justice practices the movements triggered through land and building occupations, as well as through their internal dynamics and in their dealing with the state and other housing and land stakeholders, they go beyond critique of neoliberalism. They press for a substitute sociopolitical project that would allow millions of people in Brazil access to decent housing and to a myriad of other opportunities—including better access to education, health, jobs, decision making participation and autonomy, etc., i.e., the right to the city [4–7]. As shown in the

experiences of those participating in the movements' housing struggles, restorative justice deserves further exploration as an alternative planning mode that can combine the strengths of advocacy planning and communicative action while reducing their drawbacks.

I argue that the way and scale by which low-income, roofless people are grabbing lands and buildings through these social housing movements in both central and peripheral areas of multiple Brazilian cities constitutes a restorative land grab that turns the national, urban land system upside down. They counter the land-grabbing phenomenon expanding as a key instrument of "accumulation by dispossession" [8,9], which is globally taking place as one of the latest waves of neoliberalism. Not only does the social housing movements' land grab resist the negative implications resulting from the land grabbing by the powerful, but also aims to reverse them.

The article expands these arguments through the following sections: the *Movimento dos Trabalhadores Sem Teto* (Roofless Workers' Movement, MTST) as a social housing movement, land grabbing turned on its head, the precariat as leaders of the struggle for land reform in Brazil, restorative justice as a path to authentic and lasting urban reform, core planning instruments that support the social housing movement MTST's *modus operandi*, and persistent obstacles faced by the movement.

## 2. A Note on Methodology

These reflections partially feed from team ethnographic and planning studio work on several building and land occupations by the MTST and other social housing movements in Rio de Janeiro and São Paulo in Brazil in 2016. A colleague and I cotaught a semester-long, international planning studio course with seven master students of planning at Columbia University in New York, USA, entitled, "Right to the City: Housing and Community Development in Brazil", in the spring of 2016 [10]. The MTST was our main interlocutor in São Paulo and Rio de Janeiro. We sustained conversations with leaders and members of the movement via Skype while in New York and in person during our two-week stay in Brazil. The studio also had a Columbia-Brazilian institutional partner, Studio-X Rio de Janeiro. We benefited from its research, contacts, and events on social housing movements in Rio de Janeiro and São Paulo, and performed our own participant observations, interviews, presentations, and focus group discussions with MTST members in its venue and in the localities of several occupations in both cities.

## 3. The *Movimento dos Trabalhadores Sem Teto*: A Social Housing Movement

This manuscript does not attempt to analyze the specificities of Rio de Janeiro's or São Paulo's occupations, but instead discuss the MTST movement from a broader perspective—its philosophy, strategies, and implications—situating it on larger political economy contexts in both Brazil and the world (i.e., neoliberalism and land-grabbing processes) and positioning its *modus operandi* as example of emancipatory politics, specifically, restorative justice.

I refer to the MTST as a social *housing* movement because it places housing at the center of its struggles. Yet, it conceives of housing as larger than physical shelter. Rather, it views it as the entry point to the right to the city, not solely in the sense of access to better education, health, jobs, etc., but to a different type of city altogether in which use value is prioritized over exchange value. Hence, the movement explicitly problematizes the capitalist order, proposing instead to open up urban land and decent housing to those in need independently of their purchasing power. MTST is a *social housing* movement because its conception of the right to housing is solely realized if housing is available to all. In its words:

It is of no use getting houses if life continues in the same way, with capitalism imposing its rules. For this reason, [the strategy of] occupations has a greater meaning for us than the struggle for housing: it is a way of forming new militants for the struggle, of building reference in the urban periphery, and of showing workers that—with unity and organization—we have the power to confront this system. [11]

The movement engages in demonstrations (marches, blockading of major streets, picketing of political offices) demanding housing and a larger urban reform, yet those actions are done in support of their main strategy—occupations. In the movement’s testimony:

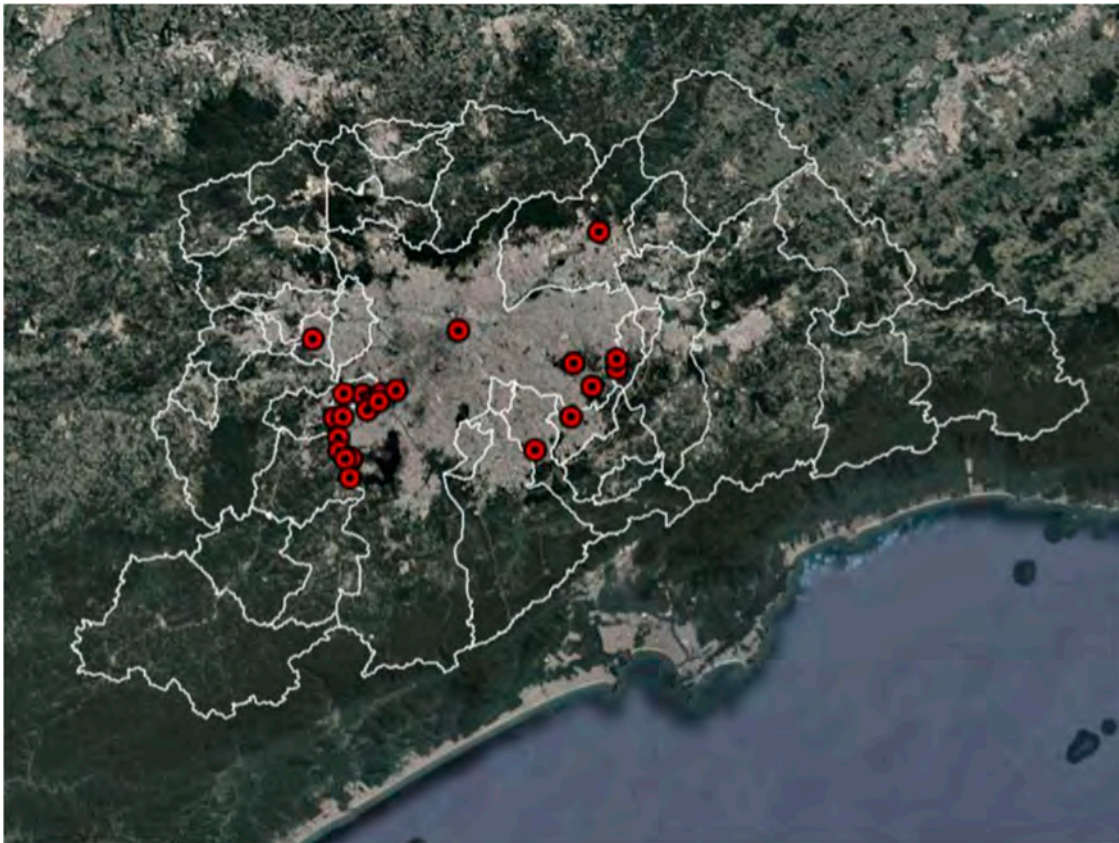
Our most important form of action is urban land occupations. With them we directly pressure the big landowners and the state, denounce the social problem of housing, and construct a process of autonomous organization of the workers. [12]

The MTST is a national movement with chapters in several metropolitan areas of Brazil. In addition, it has multiple movements and institutional “partners” with which it both collaborates and benefits from (for a list of MTST’s partners, see <http://www.mtst.org/parceiros/>). Aside from the MTST, there are many other social housing movements in Brazil that differ in their aims, strategies, organization, and ways of engagement with the state. Apart from their individual aims and actions, movements frequently build coalitions and strive to collaborate with each other, including the MTST.

Unfortunately, information about how much vacant and underutilized land and idle housing has been grabbed by the MTST and how much housing was built as a result of its land-grabbing is not readily available. This is not information the movement keeps systematic track of or, at least, does not have it publicly available. It is understandable, since occupations are deemed illegal by the establishment and the movement and members of it can be accused, fined, and jailed due to their participation in occupations.

As a proxy to this information in the municipalities of São Paulo and ABC (metro region), the Removal Observatory [13], an action research group of Universidade de São Paulo (USP) and Universidade Federal do ABC Paulista (UFABC), maps, monitors, and develops collaborative actions with communities in territories threatened with evictions since 2010. According to the Observatory, at least 14,000 families have been evicted from their homes in the metro region since 2017. The great majority of evicted people relocate to favelas and occupations in the historical center of the capital—occupations of buildings—and peripheral fringes. The Observatory’s data are collected from social media (WhatsApp) denunciations, the monitoring of news reports in the media, and contacts with the movements, leaders, and legal defense institutions. My own preliminary mapping of occupations in São Paulo (produced May–August 2016) used those sources and corroborated spatial information with Google Maps. It verified information about 30 occupied buildings (just one of which led by MTST), 10 occupied land lots by MTST, and 10 more by other social movements (see locations of MTST occupations according to the movement’s reports on Figure 1).

I use the term social housing to denote housing constructed with public funding through the *Minha Casa-Minha Vida* (My House, My Life, MCMV), the federal housing program of Brazil. The majority of the MCMV projects, particularly in metro areas such as São Paulo’s, are multifamily and owner-occupied (more on the program below). The exclusivity of owner-occupancy is one more way in which the MCMV program neither experiments with nor expand other housing tenure modes (e.g., rental and more progressive tenure modes such as community land trusts or cooperatives) that could make access to housing more affordable and versatile.



**Figure 1.** Occupations by the MTST in metropolitan São Paulo, 2016. Map elaborated by Luiza Lacerda, Daniela DiasRegis, and Renata Camarate.

#### 4. Land Grabbing Turned on Its Head

Land grabbing has been defined as land “acquisitions or concessions that are one or more of the following: (i) in violation of human rights, particularly the equal rights of women; (ii) not based on free, prior and informed consent of the affected land users; (iii) not based on a thorough assessment, or are in disregard of social, economic and environmental impacts, including the way they are gendered; (iv) not based on transparent contracts that specify clear and binding commitments about activities, employment and benefits sharing, and; (v) not based on effective democratic planning, independent oversight and meaningful participation” [14].

Land grabbing is a term that is increasingly used in the development studies literature to refer to the contentious issue of large-scale land acquisitions: the buying or leasing of large tracts of land, mostly in developing or emerging countries by domestic or transnational companies (such as Monsanto, Nestlé, or Coca-Cola), governments (such as the UK, the US, China, and India) or individuals. It primarily refers to large-scale land acquisitions following the 2007–08 global food price crisis [15] and has also led to an associated trend of water grabbing [16]. The process has expanded globally under neoliberalism, as a key instrument of “accumulation by dispossession” [8,9].

These large-scale investments in land have been criticized by civil society organizations and scholars as having negative impacts on local communities because of their effects on land insecurity, poor or inexistent local consultation and compensation for land, development-induced displacement, unemployment and underemployment of local people, shady processes of negotiations between investors and governments, negative environmental and labor consequences of large-scale agriculture, and neocolonialism—a renewed economic imperialism of developed or rapidly developing countries over developing nations [17].

I distinguish three broad, historical periods of land grabbing in Brazil: colonial land grabbing, 1530 to late 19th century; modern land grabbing, late 19th century to mid-20th century; and neoliberal land grabbing, 1970s to the present.

With the Portuguese occupation of Brazil in 1530, the rules of occupation of urban and rural land were defined by the king, the church, and oftentimes the landowners to be, particularly belonging to or favored by the aforementioned institutions [18]. The law tried to regulate access to unoccupied areas and established a land registry to define the areas that would belong to the state. However, the acquisition of unoccupied areas was allowed, independently of their occupation by indigenous people, who were evicted or killed. Colonial land grabbing lasted for centuries. The Law of Lands in 1850 instituted private property. Landowners needed to demarcate and register their rural and urban properties, but without much supervision or proof of previous ownership. This condition enhanced fraud in the records in public registers. A scamming practice called *grilagem* was widely used by which property titles were put in boxes filled with crickets so that they made the papers look old and valid [18]. It is estimated that some 100 million hectares in Brazil were grabbed in this way.

Within the modern land grabbing period, Constantino [19] identifies the agricultural export stage (late 19th century to 1930s) and the industrialization stage (1930s to 1970s). The year of 1964 carried significant change in the agrarian scenario. The creation of the Land Statute ensured that rural propriety had to fulfill social functions, which involved a satisfactory level of land productivity. If a large propriety did not satisfy its social functions, it could be expropriated for agrarian reform [18]. Unfortunately, implementation of this law has been very poor.

Thus, the need and hopes of agrarian reform fueled the creation of one of the largest and longer-lasting social movement in the world—the Landless Workers' Movement (*Movimento dos Trabalhadores Sem Terra*, MST). The MST represents millions in rural Brazil that do not have access to decent livelihoods, given that according to 1996 census statistics, 3% of the population owns two-thirds of all arable land in Brazil. The movement legally justifies its occupations of unproductive land pointing to the Constitution of Brazil [20], which states that land should fulfill a social function (Article 5, XXIII).

With the advent of neoliberalism in Brazil (1970s until the present), land grabbing has been facilitated by changes made to land regulation for land belonging to foreigners. In 1995, Brazil's National Congress approved an amendment to the Brazilian Constitution eliminating article 171, which had previously made a distinction between national and foreign companies, effectively removing barriers to the amount of land foreign corporations were able to purchase in Brazil [21]. Since the global food crisis in 2008, there has been an increase in the purchase or lease of large portions of land in Brazil by foreign investors. More than half of the foreign capital invested in land in Brazil comes from just seven countries: Portugal, Japan, Italy, Lebanon, Spain, Germany, and the Netherlands. The lands are cultivated for various purposes—the so-called “flex crop” phenomenon [19,22]. The neoliberal reforms meant having land offered to the more lucrative activities, leaving aside important considerations about employment or food and nation-state sovereignty. Recent activities (mostly natural resource extraction) are often produced in highly automated industries with relative high profit and low employment. Some companies representing these lucrative activities are Cargill, Bunge and Born, PDVSA, and Petrobras [19].

This land grabbing phenomenon is not exclusive to Brazil. A global Land Portal database reports on about 50 billion hectares of land deals in the world, with about half of that been of transnational land acquisitions, mostly of investments in the production of palm oil and biofuels [23]. The largest destination country is Brazil with 11 percent by land area. In 2010, Brazil started enforcing a long-existing law that limits the size of farmland properties foreigners may purchase, halting a large part of projected foreign land purchases [24]. However, this trend may be reversing since the overturn of President Dilma Rousseff in 2016.

As this brief historical account illustrates, land grabbing by individuals, institutions, and companies in Brazil is an integral part of its history and its present. Today, the inequality of rural land distribution in Brazil is one of the highest in the world and has not been able to be redressed by failed attempts to

agrarian reform. Aside from indigenous resistance since the colonial period, more recently landless rural social movements that started in the 1960s and roofless urban social movements that started in the 1980s have been flipping land grabbing in Brazil on its head by performing restorative land occupation of their own. This has happened at a much more modest scale, but it is still of significance.

In the 1980s, an urban reform movement surged fueled by grassroots and multisectoral coalitional mobilization in Brazil [1,2]. It tried to redress the unjust land distribution in cities, realizing the right to housing and the right to the city [4–7]. The right to housing is recognized in the Universal Declaration of Human Rights and in many nation-state constitutions, including Brazil's. It is also broadly discussed in academic literature analyzing and advocating for the decommodification of housing. As such, it is tied to the right to the city as housing is conceived as a necessary, albeit insufficient entry point of access to the city's services and opportunities. The urban reform movement helped enthrone these rights in the new Brazilian constitution [20] and the ensuing federal and local laws—particularly the federal, 2001 City Statute. Since then, people have been organizing in urban social movements to collectively demand and press for the realization of their right to the city and to housing. One main strategy they use in their struggle is the grabbing of idle buildings and lands that are not serving their constitutionally mandated social function and could be relatively easily—mediating favorable political and judicial will—converted into decent social housing projects.

I argue that the low-income, roofless people grabbing lands and buildings at the scale that they are doing so through these housing movements in both central and peripheral areas of multiple Brazilian cities is nothing short of a counter, restorative land grab that turns the national, urban land system upside down. Not only is it a land occupation that resists the negative, aforementioned implications resulting from the land grabbing by the powerful, but also aims to reverse them. Instead, these land occupations create conditions conducive to land security, just local consultation and compensation for land, security of permanence and tenure and dignified employment for local people, just and transparent processes of negotiations between investors, governments, and communities, good stewardship of the environment and local agriculture, food sovereignty, and thus overall real conditions for overcoming neocolonial development and subjectivity formations.

## 5. The Precariat: Unsung Leaders of the Struggle for Land Reform in Brazil

In sociological and economic terms, the precariat is a social class formed by people suffering from precarity, a condition of living without security or predictability, affecting material and psychosocial wellbeing. Unlike the proletariat class of industrial workers in the 20th century, who lacked their own means of production and sold their labor to live, today's members of the precariat are only partially involved in labor. They are subjected to conditions of job insecurity, intermittent employment or underemployment, and the resultant precarious existence [25]. The emergence of this class has been ascribed to the entrenchment of neoliberal capitalism [26,27]. Standing [28] analyzed the precariat as an emerging social class. In his words, the precariat, consists of a multitude of insecure people, living bits-and-pieces lives, in and out of short-term jobs, without a narrative of occupational development, including millions of frustrated educated youth who do not like what they see before them, millions of women abused in oppressive labor, growing numbers of criminalized people tagged for life, millions being categorized as 'disabled', and migrants in their hundreds of millions around the world. They are denizens; they have a more restricted range of social, cultural, political, and economic rights than citizens around them.

In visiting occupations in Rio de Janeiro and São Paulo, Brazil I heard multiple stories of people unemployed, underemployed, and precariously working in an on-and-off basis. Their chronic challenges earning a living lead to persistent food insecurity and housing poverty. Ghillerme Boulos [29,30], member of the National Coordination of the Roofless Workers' Movement (*Movimento dos Trabalhadores Sem Teto*, MTST), corroborated that MTST members and members of a myriad of other social housing movements in Brazil are regularly people that are in one or more of these situations: homeless, unable to sustain current housing (rent or mortgage) costs without

neglecting other needs; doubling up with relatives or friends as a favor; living in precarious housing; and people who lost their shelter to disasters or are at high risk of facing disasters where they reside.

Massive discontent can turn the precariat into “the new dangerous class”, as Standing [25] called it. In Brazil, the precariat can indeed be considered ‘dangerous’, but not in the Marxian way in which the *lumpenproletariat* was considered dangerous, i.e., its lack of class consciousness, but precisely for its rebellious potential as destabilizer of the status quo (in this case a land and property regime destabilization purposely pursued by the MTST). Precarity does pose a great danger to the status quo because members of the social housing movements push for the Brazilian constitution and the urban reform to be truly realized, and not just remain as meaningless words on a piece of paper.

More importantly, the level of chronic poverty of the precariat should primarily be considered a danger to members within the class, because it subjugates them to subhuman conditions of living, threatening their well-being, their health, and ultimately their lives. Their precarity should also be deemed dangerous to society at large, because it compromises the wellbeing of members of the current labor class and future generations, with many of today’s children facing limited opportunities to reach their full potential as productive and healthy adults.

To further explain the notion of the precariat, I invoke Agamben’s [31] concept of the *homo sacer*. The *homo sacer* (Latin for “the accursed man”) was a figure of ancient Roman law: a person who was banned and could be injured or killed by anybody with impunity. The idea of a person declared as unprotected by law who can consequently be hurt by anyone with immunity persisted throughout the Middle Ages, reproving the entire human intrinsic moral worth of the condemned outlaw, dehumanizing her literally as an animal—a “wolf” [32]. The notion was first revoked by the English Habeas Corpus Act of 1679, which declared that any person must be judged by a tribunal before being punished.

Agamben takes the concept of the *homo sacer* as a starting point in his work on “sovereign power and bare life”. As a clear example of “bare life”—bodies stripped off their human and political dignity—and *homo sacer*, the precariat members of the housing movements in Brazil (not all members of the MTST and other housing social movements in Brazil are part of the precariat, as the movements have allied members, but the majority are) have been evicted from some of their building and land occupations with disproportionate, unchecked police and civil violence. Frequently, mysterious fires have destroyed their occupations, women have been abused and raped, and men have “disappeared” or been tortured, with no accountability for the perpetrators of these crimes. Bare life or a *homo sacer* is what the average member of the MTST and similar social movements is considered, in-and-of herself, by a large sector of Brazilian society and its legal apparatus: a non-fully human, non-fully political body: a noncitizen or, at best, a subcitizen. The mainstream media and politicians and landowners threatened by the values driving social housing movements’ actions in Brazil portray them as criminals and even terrorists, which in turn put their members at higher risks and make their actions more difficult. The criminalization of social housing movements and their members performing land and building occupations has been a permanent challenge the MTST has faced, even under political regimes empathetic to their goals, such as the *Partido dos Trabalhadores* (PT). In the latter cases, criminalization has been low or nonexistent from the part of state authorities, but has come from the political opposition, landowners, and others philosophically or materially threatened by the movements’ actions.

In order for a deemed noncitizen or subcitizen to be “dangerous”, as Standing [25] called the precariat, she would need to become part of a social class, and even more so, a social movement with class consciousness. A powerless person cannot systemically transform anything on her own—she is not as dangerous. Her dignity as a human being is deemed so small or inexistent—a *homo sacer* or bare life—that it can be inconsequentially dismissed, i.e., its violation would hardly carry any moral or legal judgment or consequence. Yet, when many “powerless” human beings come together they accrue a collective dignity and power that is hard to dismiss any longer. They go from a powerless *homo sacer* to a collective “homo social”, in the process acquiring a power that is dangerous, i.e., potentially

transformative. In explaining this phenomenon, Saskia Sassen [33] speaks about the power of the powerless. Cities are places where the powerless can shape history, she claims. Thus, the Brazilian housing movements are going from “making life” dynamics—the reproduction of quotidian life—to “making history” ones—pushing for structural transformations [34,35]. As the work of Zibechi [36,37] on social movements in Bolivia has demonstrated, courageous and innovative social movements can succeed in transforming states with new forms of emancipatory politics that challenge neocolonialism and neoliberalism.

As an example of the array of Brazilian social housing movements, the MTST had 23 land occupations in Greater São Paulo in 2016, with 50–60,000 people participating in them, according to members’ reports (see Figure 1). Just in the Nova Palestina occupation in the outskirts of São Paulo, MTST members claimed to have about 300,000 sq. mt. of land (see Figure 2). With these large land occupations, not only do they call the attention of other housing-poor people that end up joining the movement, they also force the attention of landowners and city officials that for whatever reason—often times greed, ideological opposition, and/or political indifference—had not been responsive to the movement’s demands. So, this is a sizable and symbolically powerful urban land grab by which the precariat is pushing for restorative justice as both a central process and outcome in the struggle for Brazil’s needed new urban land reform [38].



**Figure 2.** Partial view of MTST occupation Nova Palestina in the periphery of São Paulo. Photo: Clara Irazábal, 2016.

## 6. Restorative Justice as a Path to Authentic and Lasting Urban Reform

There is a vast historical social debt that Brazil, as many other countries around the world, has vis-à-vis its precariat. By claiming their constitutional rights to the city and to housing, Brazilian housing movements are inviting the power holders in Brazil—and with that all of us



citizens of the world—to courageously embrace restorative justice as an approach to justice that could accomplish much in redeeming such debt.

Restorative justice focuses on the recovery of the victims, and not on the arrest and conviction of the offenders. The offender may get a punishment for acts s/he committed, if restorative and criminal justice operate concomitantly. More importantly, under a restorative justice approach, the offender will take responsibility for her/his actions and commit to redressing the existing injustice. In a dialogical process, which a facilitator may mediate, the victim would be able to understand why the crime has happened and the offender would be directed to the next steps intending to reduce the harm caused by her/his actions. Thus, the systemic social order in place that produced the injustice is acknowledged and explained, not ignored or justified. The stakeholders then explore and agree on how to collaborate to subvert the root causes of the injustice.

Distinct from the punitive approach of criminal justice in Brazil (and most countries, including the U.S.), restorative justice focuses on the needs of victims, offenders, and the involved community. The intent is for everybody to make progress as people build together a more just society. This is in contrast to punitive justice approaches where the main aim is to castigate the offender or satisfy abstract legal principles. The approach is based on a theory of justice that considers wrongdoing to be an offence against individuals and communities, rather than the state [39]. Restorative justice fosters dialogue and empathy, showing high rates of participants' satisfaction and accountability [40].

Bringing this concept to urban planning, both the substance—demands for the right to housing and to the city—and processes—participatory and consciousness-raising—of MTST and other social housing movements in Brazil are expressions of restorative justice. Regarding the substance, the social housing movements have built their rationale on Brazil's Federal Constitution of 1988 [20], which states that “property shall serve a social function” (Art. 170-III and Art. 5-XXIII). It also states, “[T]he state shall require from the owners of an under-used or vacant urban property the promotion of its proper utilization [...] under penalty of expropriation” (Art. 182). In addition, the federal Statute of the City (2001) enshrines the “right to decent housing” (I) and “the prevalence of common interests over individual property rights” (III).

The movements have also called attention to the quantitative and qualitative housing deficit in Brazil. According to the Fundação João Pinheiro [41], Brazil was lacking 6.06 million housing units, and in greater São Paulo the deficit was of 629,891 in 2014. About 80% of such deficits concentrated in people earning 0–3 minimum wages—the lowest-income bracket. Despite this concentration of need, people at this socioeconomic stratum are for the most part not served by the social housing program in Brazil. With no housing alternatives, they constitute the movements' majority membership. Restorative justice starts in this case with the act of urban residents claiming what is rightfully theirs by the constitution—such as the right to housing—through occupations and demonstrations in order to get the government's attention to its legal responsibilities and the urgency of the housing condition. In this manner, they also call the attention of land and property owners not fulfilling their legally mandated obligations.

Regarding processes, the MTST chooses very carefully the land it could occupy, trying for it to have the best conditions so it can serve a social function, as requested by the national constitution—particularly by being vacant or underutilized for a long time and delinquent in property taxes. The MTST prefers to occupy land in the urban periphery instead of buildings in central areas of the city (as other social housing movements do) for several reasons: land plots are larger in the urban periphery and can accommodate more people; the periphery is where the largest part of its constituent base lives, thus making it easier for them to attract current and new members to their movement and occupations; and, when the movement is successful in attaining social housing projects in occupied lands, it helps improve the underserved areas with new transit, utilities, and services needed.

Whether occupying vacant or underutilized land in the periphery or central areas, the movements incentivize (often absentee) landowners and the government to negotiate with each other and themselves. Such negotiations grant landowners the possibility of becoming compliant with the

law by having their land perform a social function. This can be done by either building a project on it or by selling the land so that another entity (the state, a private, or non-for-profit agent) can develop it. In the process, original owners can be compensated for the land and the government can exonerate them of accumulated unpaid taxes. Negotiations also grant governments the opportunity to fulfill their mandate of realizing the social function of land and the right to housing as commanded in the national constitution and other laws. They also bring the state closer to a constituency that it has often been unable or unwilling to reach—that of individuals with the lowest or no income.

Overall, these negotiations bring participants face to face with each other, opening up the possibility of mutual understanding, compassion, and consensual agreements. If and when such negotiations are facilitated and conducted appropriately, the dialogue can get to the structural causes of the injustice been discussed (in this case the housing deficit and its effect on millions of Brazilians) and the acknowledgment of the different agents' and institutions' implications in both creating and solving it. I claim that, in the instances when the social housing movements' representatives are successful at making the collective rights (to housing) prevail over the relative individual rights (of private property), justice is restored (vacant or underutilized lands are converted into social housing or mix-use projects serving the underserved). All actors involved make sacrifices yet also gain something and can claim a fundamental contribution to solving conflict and promoting or restoring justice.

Restorative justice is not unknown in Brazil. In 2004, the Brazilian Ministry of Justice received a small United Nations Development Program's (UNDP) grant to launch the country's first official restorative justice (RJ) pilot projects. Dominic Barter [42] led projects in São Paulo and Porto Alegre, relying on the experience of the Center for Nonviolent Communication (CNVC), which studies how people use their power to create partnership and cooperation, "emphasizing compassion as the motivation for action rather than fear, guilt, blame, coercion, threat or the justification of punishment" [43]. Barter created "restorative circles" in favelas confronting violence, which involved three key participants: the author of a given act, the recipient of that act, and the local community. These terms (author, recipient) were preferred to the victim and offender labels, in recognition of the complex web of mutuality that much violence both involves and demands to be solved [44]. Despite these promising experiences, today restorative justice in Brazil mainly exists in order to assist the judicial process. Since the judiciary is not capable of keeping up with its demand, small cases are often directed into mediation through restorative justice, giving it an auxiliary role, which it has also had in the US and other countries.

As a planning mode, restorative justice can combine the strengths of advocacy planning and communicative action while reducing their drawbacks. On the one hand, restorative justice would correct a traditional weakness associated with the equity or advocacy planning approach:

Traditionally invested in the promotion of outcomes of social equity, the advocacy model has less to say about the procedural aspects of the planning process itself. Through social learning, a more inclusive, participatory process would be able to accommodate varying viewpoints without losing sight of the goals of social equity. The practice of advocacy, currently carrying adversarial undertones, would be subsumed under a more general effort to cultivate trust and reciprocity between stakeholders. [45] (p. 132).

Thus, without relinquishing a clear benchmark of justice as a result of the planning process, restorative justice would press for a participatory and compassionate process of deliberation, which is not an emphasis of advocacy planning.

On the other hand, the crafting and nurturing of a participatory process in restorative justice approaches would not abandon the pursuit of more just tangible outcomes as a result of planning, as may be the case in communicative action processes [45]. In fact, communicative action has been criticized for its focus on process at the expense of a concern with outcomes [46]. Proponents argue that consensus building is not doomed to produce the lowest common denominator solutions to planning problems and can deliver outcomes that are more than the sum of the expectations that

stakeholders come to the negotiating table with [47]. Yet, power differentials can be deterministic in decision-making processes and can result in a zero-sum game of winners and losers. Indeed, “[s]ome empirical research from planning practice has demonstrated that the ideals of communicative rationality and consensus-formation are difficult to achieve” [46] (p. 123). Actors may see no benefit in behaving communicatively when strategic, instrumental power plays and manipulation of information could result in more favorable outcomes for themselves [48]. “Skillful facilitation of the process and stakeholders that have both something to give to and something to gain from other stakeholders are key” for some tangible just outcomes to be attained [46] (p. 123). Restorative justice is predicated on such a process.

## 7. Planning Instruments

Aside from building the rationale for its housing struggles on the federal laws of the country (and in many instances congruent local laws), the social housing movements in Brazil have made use of progressive planning tools, programs, and professionals that can and have operationalized their demands. I briefly discuss and provide examples of four fundamental ones:

### 7.1. Zoning: Special Zones of Social Interest or ZEIS

Zoning is “inclusionary” when it is used to increase the supply of affordable housing or social housing in locations where pure market mechanisms would have the effect of deepening socio-spatially segregationist processes [49]. In that spirit, the Brazilian zoning instrument Special Zones of Social Interest (*Zonas Especiais de Interés Social*, ZEIS) is a form of both inclusionary zoning and land value capture in benefit of the community in the form of production of social housing.

Since the 1980s, ZEIS has been frequently used in Brazil to recognize and consolidate informal settlements (ZEIS of regularization). Yet, in its most recent and innovative uses, the instrument designates land for the promotion of social housing by public and private developers. There are five types of ZEIS: (1) Regularization of land occupied by informal settlements; (2) Vacant or underutilized lots with potential to be urbanized; (3) Vacant or underutilized building in urbanized areas; (4) Vacant or underutilized lots in protected areas with potential to be urbanized; and (5) Vacant or underutilized lots in an urbanized area. ZEIS is the most widely used instrument for recognition of land possession, protection of the right to housing, and prevention of forced evictions. Some municipalities have demarcated ZEIS in urban voids close to or surrounded by urbanized areas, with the intention of articulating housing needs with opportunities, such as underutilized land and surrounding urban infrastructure [50].

The Edith Garden ZEIS in the city of São Paulo is located in one of city’s areas of real estate expansion. Given growing market pressures, the local low-income population at risk of eviction had to organize, build a coalition of supporters, and bring its case to court to be able to attain the ZEIS designation that protected its permanence in place. Similarly, through negotiations following occupation, the MTST was able to convert the land occupied by the encampment Nova Palestina from its original designation as protected area, in which only 10% of the land could be built, into a ZEIS 4, applied to natural areas in which 30% of land area is allowed to be built. In the process, MTST members also committed to become the stewards of the 70% of the remaining natural land.

### 7.2. Property Taxation: Urban Property and Land Tax or IPTU

The progressive Urban Property and Land Tax (*Imposto Predial e Territorial Urbano*, IPTU) increases the percentages of tax on each accumulated year of property idleness. It is the mechanism used by municipalities in Brazil to disincentivize both real estate idleness and speculation in areas with consolidated infrastructure. Vacant or underutilized structures and lots receive a notification by the government. Owners of the property have a year to present plans for using the building or land. After that period, the owner needs to start paying progressive taxes on the property while it remains idle. After five years of increased taxation, if there is no progress in using the property, it can be

expropriated by the municipality. The mechanism is supported by the City Statute, a federal law that since 2001 regulates the use of property.

Implementation of the progressive IPTU has been very slow in Brazil. In addition to São Paulo, only seven other Brazilian cities have applied the IPTU so far, and in only two—Maringá (PR) and São Bernardo do Campo (SP)—the mechanism has not suffered discontinuity with the change of administrations. In the city of São Paulo, as of May 2018, 1098 idle real estate owners have ignored the warning of the city to use their property and, therefore, are subject to pay more expensive IPTU. The number represents 85% of the addresses notified by the government so far, yet the number of notifications is small in comparison with the number of idle lands and buildings that would qualify for it in the city [51].

In São Paulo, the progressive IPTU began to be charged in 2016. According to city records, until December 2017, only 94 properties notified had fulfilled the obligations—less than 10% of the total. There are fewer cases than hoped for in which the notification of idleness is reversed by the proper use of the property. The very logic of the real estate market represents an obstacle to make effective the use of empty real estate in the city, especially in the central region. Addresses in the city center concentrate the largest amount of vacant or underutilized real estate. Most are from commercial buildings that lost condominiums to more coveted addresses. With low demand, rental prices plummeted. In some cases, it was more economically advantageous for owners to keep their buildings closed or turn them into parking lots. Many owners also chose not to pay progressive taxes expecting instead compensation for expropriation by the public sector or amnesty of tax debt. In some cases, some owners concentrate a lot of real estate and it makes no difference to them if they get one or two of their properties closed [51].

Besides the low adhesion of empty real estate owners to use their property, the incentive to the social function of buildings provided for in the constitution suffered a setback in the mayoral administration of João Doria (PSDB), succeeded in April 2018 by Bruno Covas (PSDB). The number of idle addresses reported in 2017 (58) fell sharply compared to those in Fernando Haddad's administration (PT)—more than 500 in each of the last two years of the mandate. In 2018, only five new properties has been included in the list. Political will is lacking.

Despite these challenges, there are examples of how the application of progressive IPTU can be converted into housing. In addition to the conversion of individual properties, the potential of IPTU to address the social housing deficit can be scaled up. For instance, in Santo André (SP) in 2015, the city government created a land bank formed by notified owners who preferred to cede their idle real estate. The properties were allocated to the construction of housing by MCMV. This is a precedent that the MTST could help to emulate in other cities and metro areas.

### 7.3. Federal Social Housing Program My House My Life—Entidades (MCMV—E)

The My House My Life [52], is Brazil's first effort at large-scale public housing, a nationwide program tasked with constructing 3.4 million homes as part of a broader effort to both tackle the housing deficit and expand economic growth. Initiated by President Lula and expanded by President Rousseff, MCMV was instituted in 2009 to provide improved housing for an estimated seven million Brazilians residing in suboptimal living conditions. The first phase of the program received a budget of R\$34 billion (USD \$17.55 billion) to construct one million homes. The second phase of MCMV was established in 2011 with a budget of R\$72 billion (USD \$35.1 billion) to build an additional two million homes by 2016. Participants of the program are offered financing options either to buy a home constructed by the government or to renovate an existing one. Families with monthly incomes of less than R\$5000 are invited to apply, with priority given to families who earn less than R\$1600 per month [53], an income still too high for most MTST members. In 2016, the Minister of Cities was preparing the launch of a third stage of MCMV but, given Brazil's crisis, could not establish goals or procure funding.

Despite the commendable resources and political will invested on MCMV, the program has been justly criticized as representing a reversal of the spirit of the urban reform or even an anti-reform,

incrementing the commodification, the sociospatial segregation, and the unsustainability of Brazilian cities [54]. Indeed, through this program, an enormous transfer of public land has been put in the hands of large private companies that have profited while making terribly small, poorly built, and badly located housing for some in the upper brackets of the poor. Such transference of public subsidy to private companies has not trickled down to the poorest of the poor, who Brazil categorizes as people earning 0–3 minimum wages per month (minimum wage in Brazil was 954 BRL/Month in February 2018 = US\$294.46/month [55]).

There is, however, a small fraction of the MCMV Program called Entidades, implemented in 2009. It is an alternative affordable housing program made for families with incomes lower than R\$1600 (Stratum 1) organized in housing cooperatives, social movements, associations, and nonprofit private agencies. Families have active participation in the design, management, and construction processes. Beneficiaries of the project are responsible for the management of resources and monitoring of projects, not developers. In this manner, people have more control and are able to make more efficient use of resources in accordance to their needs [56] (Portal Brasil, 2016). The average square footage of apartments produced by large developers is around 40 m<sup>2</sup>, while Entidades units' is 63 m<sup>2</sup> [57]. Another advantage of Entidades is that it has produced some mix-use developments, integrating into housing projects some cooperative production spaces. Unfortunately, the percentage of funding from MCMV that has been allocated to the program Entidades has been minuscule (1–4%, varying by state and city), another way in which the MCMV program has disproportionately favored large and wealthy private developers to the detriment of small entrepreneurs, professional firms, non-for-profit housing organizations, and community groups. Since 2009, only about 7800 Entidades units have been delivered in Brazil. Another 12,500 have had projects approved and are in the construction or building permit phase. The amount of capital dedicated to this has been R\$2.5 billion [56] (Portal Brasil, 2016). The best housing projects attained by the MTST have been produced by MCMV—E with significant involvement of the movement's members.

#### 7.4. Socially Committed Professionals

As stated above, small development entrepreneurs, professional architecture and planning firms, non-for-profit housing organizations, and community groups can apply for MCMV—Entidades funds to build social housing developments. Communities can develop projects and use Entidades funding to contract architecture, planning, and/or development firms to work for them. Given the reduced scope and profitability of these projects (each is unique and is done one at a time) in contrast with the large, one-size-fits-all, cookie-cutter approach of the rest of MCMV projects, it is usually socially committed professionals that take these projects on.

One exemplary firm that has been doing this type of work in Brazil since before Entidades started is USINA CTAH (Usina is Portuguese for factory); and CTAH stands for *Centro de Trabalhos para o Ambiente Habitado* [58] based in São Paulo. Founded in 1990 by multidisciplinary professionals to offer technical assistance to social movements, the USINA CTAH articulates processes to plan, design, and build by/with the members of the social housing movements themselves. It mobilizes public funds and support in the context of the urban and agrarian reforms in Brazil. USINA has participated in the conception and execution of more than 5000 housing units, as well as community centers, schools, and childcare centers in various cities and rural settlements, mainly in the states of São Paulo, Minas Gerais, and Paraná. USINA engages in urban planning, favela urbanization projects, and the organization of work cooperatives. This group of professionals purposely problematizes the single-authored production of architecture and urbanism and generate alternative processes to the logic of capital through social, spatial, technical, and aesthetic anti-hegemonic experiences. USINA uses the social housing movements' occupations of land within the city as opportunities to carry out their projects as contributions to the struggle for the democratization of land and the right to the city. They do so by synergistically promoting the use of *mingas* (traditional communal work), self-management,

and the government's programs and economic contributions (e.g., MCMV—Entidades). Each member in the community contributes according to his/her abilities [54,58].

Scaling up the contributions of socially committed professionals would make a much needed, positive impact in ameliorating the scale of the housing deficit in Brazil and the challenges identified with the housing production of the standard MCMV program. These professionals operate under the assumption of housing as a human right, i.e., valuing housing primarily by its use value as home and a bundle of rights, including the right to the city, towards which we all need to contribute to restore justice. This sense of social commitment and responsibility can be purposely instilled in higher education, and trained through internships programs for students and apprenticeship programs for new professionals.

## 8. Persistent Obstacles

Despite their persistent mobilization via occupations and their sporadic successes in converting them into permanent social housing projects, the MTST and other social housing movements face some chronic and new challenges in their struggle for the right to housing. Most importantly, these are:

### 8.1. Brazil's Current Political and Economic Crisis

Brazilian President Rousseff (Workers' Party) was suspended in May 2016 after the senate voted to initiate an impeachment process, deciding in favor of it in September that same year. Rousseff was accused of moving funds between government budgets, which is illegal under Brazilian law. Yet, given the magnitude and widespread level of corruption by government officials in Brazil, including and most particularly some of Rousseff's most prominent accusers, many believe the impeachment was politically motivated—a legalized coup [59]. In parallel, the massive corruption scheme associated with the oil company Petrobras, together with other negative political-economic factors, subsumed Brazil into a political-economic crisis. The MCMV housing program has been paralyzed since mid-2015 due to a lack of public funds, and was suspended following President Rousseff's removal from office and under interim President Michel Temer's administration.

Popular support for the MCMV program stalled initial attempts by the Temer administration to suspend it for good, and it resumed in June 2016 with the construction of 4200 paralyzed units under stratum 1, destined for families with a monthly income of up to R\$1800. In August of 2017, MCMV construction continued for units within the stratum 1.5 of the program, destined for families with a monthly income between R\$1800 and R\$2350—50,100 units at a cost of R\$1.2 billion. These timid actions suggest that while many changes under Temer's administration represent a drastic departure from the Workers' Party's social policy priorities, the elimination of high-profile social programs such as MCMV may further question the shaking legitimacy of the interim administration [60].

### 8.2. The Assiduous Political Disenfranchisement of the Precariat

Members of the social housing movements participating in street demonstrations and vacant land/building occupations have chronically been subjected to aggressive, and often times physically violent, police, para-police, and even private forces in Brazil. Some of the movements' leaders and lay members have been persecuted, attacked, raped, imprisoned, tortured, and even "disappeared" (the disappeared are presumed dead). Some of their encampments and belongings have been vandalized, burned, confiscated, or robbed; aside from the many evicted. In addition, mainstream media have often portrayed the movements and their members as criminals, anti-socials, and even terrorists. This social and physical harassment and negative stereotyping have intensified since Temer took office.

When the Workers' Party was in power, the social housing movements' progress was partially buttressed by support from some political allies in government positions. Even so, there were conflictive relations between the Workers' Party, which was pressed to sustain "order" while in power, and the movements, which were challenging the status quo. Now, intent on rapidly restituting

a neoliberal regime in Brazil, the Temer administration is ideologically and politically against the agenda of the precariat in general, and the social housing movements' in particular.

### 8.3. *The de Facto Primacy of the Notions of Land and Housing as Commodities*

Although *de jure* the right to housing and the right to the city as collective rights should have legal primacy over individual rights in Brazil, the judicial system, police, and common subjectivity of many Brazilian citizens favor a *de facto* primacy of the notion of land as a commodity. Thus, private property is usually assumed to be, and treated as if it were, an absolute right, as opposed to a relative right subjected to a social function, as instituted by Brazilian law.

Land and property (housing) need to be partially considered and legally dealt with according to their use value, in addition to and in prevalence over their market exchange value. Unless and until this is accomplished, the social housing movements in Brazil will continue to face overwhelming challenges to successfully convert their organizing campaigns—and particularly their land and building occupations—into permanent housing projects for the people. This would also be the case for social housing movements in other contexts under similar political-economic circumstances to those in Brazil.

## 9. Conclusions

This paper reflects on Brazilian social housing movements' courageous response to the grave and growing land and housing crisis in the country. More than merely representing a progressive resistance, it presents the movements' agenda as a proactive crusade that shows us a way forward out of the straightjacket of neoliberal urbanism. Effectively showing us a path to contest TINA "There is no alternative" [61], it carries lessons for countries around the world, both in the so-called developing and developed worlds, given the ubiquitous spread of the housing crisis.

In Brazil, the challenges ahead to protect and expand the right to housing and the right to the city are daunting. Social housing movements are mustering greater courage, determination, strategic planning, and effort in the midst of a more hostile political and economic environment. These movements would also need more resolute support from allies in order to cooperate with them to protect and claim constitutional rights; placing the existing public planning tools into action; reinstating and expanding MCMV—E; empowering social movements through social and legal recognition, capacity building, and programmatic financial support; and promoting and demanding solidarity and reconciliation so that a social contract and ethos is strengthened in the country. The latter is essential grounding for restorative justice to be practiced.

As allies, planners could expand research and advocacy at the intersection of social, affordable, and inclusionary housing; social movements, codesign, and cooperative building/management; and innovative and progressive legal and planning instruments. Planning could also reform professional education to promote social solidarity and commitment, through the mainstreaming of service-learning and internship components into the curriculum in ways that create opportunities for all students to directly experience and develop a sense of responsibility for addressing the housing (and other planning) needs of society's most disenfranchised.

The example of Brazilian social housing movements' strategies and actions also helps us move beyond the process vs. outcomes debates in planning theory, proposing restorative justice as a way of overcoming the biases and weaknesses of communicative action and advocacy planning on the two poles of this continuum, respectively. Adopting and mainstreaming restorative justice as a planning model can help planning deliver on its emancipatory promise—to be a discipline whose practice leads to outcomes that liberate communities from oppressive socio-spatial conditions [44]. Restorative justice can be instrumental in tackling structural poverty and inequality, making visible the invisible, incentivizing all stakeholders to participate and become responsible for restoring justice, and demanding justice in both processes and outcomes.

Successful restorative justice precedents in Brazil (and elsewhere) can be scaled up and used to strengthen the ways *Movimento dos Trabalhadores Sen Teto* and other social housing movements are operating to restore justice in Brazil. Calling attention to urban land and housing injustices and pressing, not in this case for law reform, given Brazil's progressive laws, but rather for radical law implementation, Brazilian social housing movements courageously show us a way to a more just and sustainable urban world we should aspire for and contribute to build. Let us heed their call and respond creatively and responsibly.

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