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Illegal Subdivision in Rio de Janeiro

*Dimensions, characteristics and
government responses*

By Eliane Faerstein and
Maria Teresa Correa de Oliveira

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Introduction

Informal land delivery systems form the main channel through which low income groups in Third World cities gain access to land and (eventually) housing. Rio de Janeiro¹ is no exception to this general rule. Formal private sector housing delivery has been largely targeted at middle and high income groups, and, currently, it is subject to a further up-market move. Public low income housing mainly took the form of resettlement projects. Hence, on balance, it has added only little to the existing housing stock. Furthermore resettlement projects were subject to unduly high standards in view of the paying capacity of the target group, which has led to an upward filtering of publicly produced dwelling units.

From the middle of the 19th century onwards there have been important changes in the articulation of informal land delivery. During the latter half of that century the urban poor were mainly housed in collective buildings containing small rental units. At the turn of the century, most of the precarious collective dwellings were demolished and invasion settlements ('favelas') began to emerge. In the 1940s this essentially non-commercial form of land delivery was complemented by a commercial form of informal land delivery: illegal subdivision. During the past decades, informal land delivery has gone through a gradual commercialization process. In the favelas, initially created through the non-commercial mechanism of land invasion, plots have been increasingly offered for sale. At the same time, the commercial illegal subdivision of land was growing rapidly. Today, apart from opting for the occupation of marginal land or living on the pavement, there hardly seem to be other 'no-cost' housing options available.

To gain an understanding of the phenomenon of illegal subdivision in Rio de Janeiro, a research was conducted in 1990². This working paper is an edited version of the report that was written in the context of this research. It is an introduction into illegal subdivision and as such should not be considered to

1 Rio de Janeiro is the name of a state, a municipality and a city in the South East of Brazil. The state of Rio de Janeiro encompasses 69 municipalities among which the municipality of Rio de Janeiro. This study focuses on this municipality. Since this municipality is totally urban in nature for all practical purposes there is no difference between Rio de Janeiro as a municipality and Rio de Janeiro as a city.

2 The research was carried out by the authors. It comprises the following components:

- (a) the studying of government documents on low income housing
- (b) the analysis of data collected through a survey amongst the inhabitants of 4 illegal subdivisions (a standard questionnaire was used which mainly addressed socio-economic issues) which was carried out by the municipal government.
- (c) in-depth interviews with key-actors in illegal subdivision: government officials, illegal subdividers and prominent members of dwellers associations.
- (d) in addition, newspaper articles and visits to real estate brokers have been used as sources of information.

be an in-depth analytical study. Instead, in addition to focusing on some major traits of this form of land delivery and government responses, it presents some tentative analyses of matters which need to be further elaborated through empirical research.

The description and analysis of illegal subdivision in Rio de Janeiro is preceded by an overview of low income housing options. In this overview - which is largely written from a historical point of view - collective dwellings, favelas, new forms of land invasion and public housing will be dealt with successively (chapter 2).

In chapter three the main focus is on the phenomenon of illegal subdivision. It gives attention to the most important features of this form of land delivery, as well as to current and future government responses. The final a section describes and analyses the viewpoints of, and the relationships among the actors involved.

In the final chapter (chapter 4) some major conclusions are presented.

1

Historical context; urban growth and housing options for the urban poor

The emergence of the housing problem in Rio de Janeiro can be traced back to several phenomena occurring in the last three decades of the 19th century: the industrial labour surge that followed the failure of the coffee economy in Vale do Paraíba, the abolition of slavery and the great influx of foreign migrants.

In the 20th century, a social and economic reorganization took place in the city, with investments turning to the industrial sector because of the declining agrarian export economy. This resulted in increasing rural-urban migration, a rapid urban population growth, and, consequently, a sharp rise in the demand for housing in the urban area. The increasing friction between housing demand and housing, pushing up land and housing prices became most visible in the housing conditions of the urban poor (e.g. rising rents and an increasing number of precarious collective dwellings).

Table 1 displays the population growth in the municipality of Rio de Janeiro from the 1970s onwards.

Table 1

Growth of population in the municipality of Rio de Janeiro

year	population	growth rate (%) per decade
1970*	4,285,738	20,88
1980*	5,180,430	19,70
1990**	6,200,470	

*= source IBGE, 1970; 1980.

**= source LIGHT (electrical company); estimate

1.1 Collective dwellings

Centrally located collective low-income dwellings appeared in the second half of the 19th century. Their appearance is directly related to the fact that job opportunities were concentrated in the city centre. In addition transport between the centre and periphery was largely inadequate and relatively expensive. Thus, to live in or close to the centre was a necessity especially for the poorest city dwellers. What with their limited financial capacity on the one side, and the high prices of real estate supplied by formal mechanisms on the other, the only option available to them was to rent a place in collective dwellings. It was in that context that "casa de comodos", "cortiços" and "estalagens" came into existence. To rent a cheap dwelling unit in one of these building types implied the acceptance of relatively harsh living conditions (in terms of hygiene, ventilation, insulation, space/density, etc.).

At that time, epidemics and infectious diseases became recurring phenomena. Soon the hygienist idea was spread that to improve sanitation conditions it was imperative to remove the collective dwellings. Displacing the poor population from the valorized centrally located lands was regarded as an essential component of such an approach. In the days of Mayor Pereira Passos important urban reforms were implemented. The collective dwellings were largely removed, which forced the dwellers to look for other housing alternatives. As a consequence, "favelas" (invasion settlements) proliferated on the hills of the city. In addition, sub-urbanization was accelerated.

1.2 Favelas

From the 1940s onwards there has been a rapid growth in the number of favelas. Until the 1960s many of these settlements had gone through a gradual consolidation process. In the 1960s and 1970s the government had chosen to pursue a selective clearance policy which was mainly implemented in the better-off areas of the city. Simultaneously, the city witnessed a rapid growth in the number of substandard (illegal) commercial land subdivisions (see Chapter 3). Both favelas and illegal subdivisions have long been a main source of land and housing for low income urbanites and, in fact, still are today.

Table 2

Share of favela population in total urban population by year

year	total urban population	favela population	favela population as a percentage of the total urban population
1950	2,336,000	169,305	7.2%
1960	3,307,167	335,063	10.1%
1970	4,285,738	554,277	12.9%
1980	5,180,413	731,490	14.1%
1990	6,200,470	962,330	15.5%

source: IPLAN-RIO, 1990

Table 2 displays the growth of the share of the favela dwellers in total urban population. Although the growth rate has clearly decreased through time it is still significant. Indeed, in absolute terms 230,000 people were added to the favela population in the past 10 years. The continuing growth revealed by the figures of table 2 suggests that in contrast to many other Third World cities, in Rio de Janeiro, land invasion has continued to be an important land-delivery system for low income groups, even until today. It should be noted, however, that land invasion has gradually become a commercial activity undertaken by professional invaders, and as such differs very little from illegal subdivision (see also below). In 1990, IPLAN-RIO identified no less than 452 favelas.

In contrast to the past policy of clearance and resettlement (see 2.4), the local government is currently pursuing an upgrading policy. It accepts the existing favelas as part of the city proper. In practice this means that it has identified: (a) relatively consolidated favelas to be upgraded (in terms of sanitation, infrastructure and services); and (b) a limited number of favelas in risk-prone areas to be cleared. A major constraint in that respect is that macro-economic policy and economic recession have led to substantial cuts in government expenditure and a slow-down in the implementation of upgrading projects. Table 3 gives an overview of tenure and service conditions in 382 of the 452 favelas of Rio. A glance at the figures tells us that the large majority of favelas (95.4 per cent) do not offer any legal security as regards tenure. By contrast, electricity and water is provided on a substantial scale. The comparatively costly provision of sewerage lags behind those two services.

Among other things table 3 indicates that the large majority of favelas have gone through an informal consolidation process. Although formal recognition is lacking so far, the favela

population has managed to obtain basic services and 'de facto' security of tenure.

Table 3 **Tenure and service conditions in Rio's favelas (1990)**

	existing	partially existing	non-existing	total
formal land titles	3.7%	0.9%	95.4%	100.0%
electricity	85.8%	10.2%	4.0%	100.0%
water	68.6%	16.0%	15.4%	100.0%
sewerage	19.9%	20.4%	59.7%	100.0%

N = 382 (favelas)
Source: IBGE, 1990

Recently, a new type of favela has emerged. It concerns a form of land invasion planned by professional invaders. These professional invaders do not differ much from the land brokers active in the illegal subdivision of land. In fact, they made a rough site planning before the invasion takes place and sell the invaded plots to their client-invaders. At the moment, there is no reliable information concerning the dimensions and specific features (such as plot sizes, plot prices and target groups) of this type of land delivery.

1.3 Invasions of marginal land and pavement dwellers

In a recent interview, Professor Vilmar Farias from the faculty of social sciences of the University of Campinas stated that in Brazil rural poverty still exists today, but that it is less significant and degrading than it used to be. He argues that the alarming new phenomenon is urban poverty which is most visible in the increasing number of pavement dwellers and the invasion of marginal lands (VEJA, 17/12/1990).

The emergence of these forms of 'low-income housing' can be attributed to the deterioration of the socio-economic position of the urban low-income groups. Structural economic adjustment policy, leading to a rise in urban unemployment, a cut in government spending and subsidies related to social problems and a serious decline in the buying power of low-income groups,

has severely hit the working classes. By contrast, the incomes of the upper strata have risen. These factors render mainstream informal housing solutions (renting or owning a house in favelas and illegal subdivisions) increasingly more expensive, excluding ever larger groups of the economically weaker sections. It has been stated that in just one year (1989-1990) the homeless population of Sao Paulo nearly doubled. In Recife, no fewer than 120,000 people are estimated to live on the streets (VEJA, 17/12/1990).

For rural-urban migrants the prospects offered by city life have grown rather dim. In response, the majority of municipal governments of Brazilian cities have developed a new method of dealing with new migrants.

"In Curitiba, the task of social workers is to take care of the homeless, lodge them and feed them for ten days and then, if the newly arrived did not manage to get a job, send them back to where they came from. 'It's no use letting them stay here, as they wouldn't achieve the life they expect' says Mayor Jaime Lerner. In Rio de Janeiro, a group of officials from the municipality welcomes people at the Terminal Station and offers them money to pay for return tickets. Out of the 100 passengers arriving, less than 30 accept the offer" (VEJA, 17/12/1990).

However.

"It is an illusion to think that the new urban poor are fresh migrants' says Professor Sergio Abranches from IUPERJ. 'The population which is already settled is becoming poorer and is struggling to survive'" (VEJA, 17/12/1990).

The above quotations clearly point to the seriousness of the situation: the growing urban poverty. Obviously, Rio is no exception to the all-Brazil trend. Although no figures are available, the signs of an emerging mass of destitute people are everywhere. A significant number of households are occupying sidewalks and other public spaces to put up their huts. Many people are living under bridges or on the pavement without being protected by any kind of structure. Even in peripheral areas marginal lands such as river and canal banks are increasingly being occupied.

1.4 Public housing

The first public low-income housing schemes (parques proletarios) were implemented in the early 1940s. They were resettlement schemes to rehouse the population of cleared favela areas. These schemes mainly took the form of "conjuntos habitacionais", publicly financed conventional housing schemes. Through the years 'conjuntos habitacionais' largely kept their resettlement function.

From the 1960s onwards the clearance of favelas became a more or less official component of Rio's housing policy. Several large-scale resettlement schemes developed (Vila Kennedy, Vila Aliança, Vila Esperança and Cidade de Deus) comprising some 13,200 housing units. In 1964 the clearance and resettlement policy was financially and institutionally backed by the creation of the National Housing Bank (BNH). The BNH offered credit for acquiring a dwelling unit in a public or cooperative housing project. Between 1965 and 1975, CEHAB, the state company in charge of the planning and implementation of low-income housing schemes, had another 17,661 dwelling units built in conjuntos habitacionais, housing about 77,389 people.

A general problem concerning the conjuntos habitacionais was that the general norm - a 'modern' ready-made dwelling unit - did not match the financial capacity of low-income groups. Furthermore, the peripheral location of low-income housing projects implied additional (transport) costs for the beneficiaries. This partly explains the high rate of unpaid credit on the part of the project users, the changing of hands of dwelling units, and the return of many beneficiaries to more centrally located favelas.

Owing to a rise of the income norm attached to the application for a public dwelling, from 1974 onwards, both CEHAB and BNH reduced their social function (low-income housing) drastically. In 1986, public activities in the field of housing dropped to a minimum. Against the background of a national economic policy which has caused a drop in the value of the real incomes earned and significant cuts in government budgets, BNH activities came to a halt and public housing production stagnated. Recently, CEF (Caixa Economica Federal) has taken over some of the functions of the former BNH. In 1987 Rio-Urbe, a municipal housing organization, was created. So far (in 1990), it constructed a limited number of housing units.

2

Illegal subdivisions

2.1

The nature of illegality in land subdivisions

Illegal subdivisions can be divided into two sub-categories:

- a *irregular subdivisions* for which official permits have been obtained, but which are illegal in the sense that their implementation deviates from the applicable formal standards. Obviously, no final public approval is sought. Thus, in case of irregular subdivisions, the process starts in a regular way. Land subdividers present project plans in conformity with prescribed standards concerning access roads, division of plots, areas for public use, road network, drainage, water supply, sewerage, public lighting and vegetation. In addition the deed to the land involved is registered in the real estate public register. However, the regular process is discontinued during implementation. In brief, the plots are sold, but lay-out plans are not adhered to, nor is infrastructure provided.
- b *clandestine subdivisions* which lack even initial formal approval. In some cases subdividers have unregistered deeds to land, in others, there are no deeds at all.

Initially, the illegal subdivision and sale of land in most cases appears to be a respectable undertaking. Many plot buyers are misled by the plans and stories concocted by land brokers. In their desire to own a plot and build their own house they may ignore the potential dangers of entering in an agreement with real estate dealers. Moreover, there simply is no alternative strategy for them to become a homeowner. When, after some time, subdividers appear not to fulfil their formal obligations they feel that they have been cheated. Remarkably, the above process seems to be occurring mainly in low-income subdivisions. In most cases it results in open opposition between land brokers and their clientele. Thus the precarious, uneasy collaboration between land brokers and dwellers which occurs in many Third World cities is largely absent in Rio de Janeiro. In Rio, such a collaboration, which is based on the recognition of a (limited) convergence of interests is confined to middle and high income subdivisions (see also 3.4).

2.2 History and features

The illegal subdivision of land is not a new phenomenon in Rio de Janeiro. On a modest scale it started in the 1940s. Eight schemes were implemented in that decade.

The first subdivisions appeared on abandoned sugar cane and orange plantations in the suburbs of the city. In search of another source of income their owners had moved to central areas. They subdivided their former agricultural land into small plots and sold them to low income households (from an interview with a member of a dweller association and participant in the 'Nulceo'; see also 2.3).

In the 1950s and 1960s, the number of illegal subdivisions grew rapidly. In the 1950s the total number of such settlements had grown to 84, while in the 1960s witnessed an even larger growth, leading upto a number of 227 subdivisions. Growth declined in the 1970s and 1980s, in which some 78 and 50 land subdivisions were created, respectively. In addition there are about 152 subdivisions with unknown dates of creation (IPLAN-RIO, 1990). Today, the total number of illegal subdivisions is 507, housing an estimated population of some 600,000; 48 per cent of low-income dwellings are located in illegal subdivisions.

Geographically, the phenomenon of illegal subdivision is concentrated in the west zone of the city comprising the administrative regions of Bangu, Campo Grande and Santa Cruz. These areas are located on the periphery of the city, some 40 km from the city centre. Nearly 75 per cent of the illegal subdivisions developed on the vacant, unserviced and relatively low-priced land in this part of town. Many of them are relatively small, containing up to about 100 plots. There are, however, considerable variations in size.

Illegal subdivisions do not cater for the land and housing needs of the poorest of the poor. The inhabitants belong to various (predominantly low-income) categories, occasionally the schemes are exclusively targeted on middle- and higher-income groups. The results of a recent survey carried out by the local government in four relatively old illegal subdivisions located in the neighbourhoods of Pavuna, Bangu and Campo Grande, confirms that variation in the household income of the inhabitants of illegal subdivisions. The results are displayed in table 4.

The figures show that there is a fairly even spread of households across income categories. There clearly is some concentration in the broad category of once to four times the minimum income.

Table 4 Household income in selected illegal subdivisions

income category	%	cum. %
< 1 m.i.	11.5	
1 - 2 m.i.	22.1	33.6
2 - 3 m.i.	23.0	56.6
3 - 4 m.i.	16.6	73.2
4 - 5 m.i.	10.6	83.8
5 - 6 m.i.	4.3	88.1
> 6 m.i.	11.9	100.0
total	100,0	

m.i. = monthly minimum income = CR\$ 8,836.82 = US\$ 59.00

N = 235 (households)

Source: our own research

The current financial threshold of entering an illegal subdivision is estimated at roughly three minimum incomes, while the main target group is thought to have an income between three and five minimum incomes. The decreased accessibility implied by these figures can be attributed to an increasing pressure on land on the one hand, and the national economic policy - which has led to a drop in the real value of the incomes earned - on the other. Nonetheless, illegally subdivided plots are still a lot more accessible than public housing.

An important general feature of the inhabitants of illegal subdivisions is that, prior to moving to a plot in an illegal subdivision, they rented a house or shared a house with relatives or friends. Using Turner's phraseology one could say that they are typical consolidators. This implies that, as is the case in many Third World cities, illegal subdivisions can be regarded as consolidation settlements accommodating low-income households who are at the final stage of their 'housing career'. Furthermore, it indicates that there is an intra-city migration flow from 'bridgeheader' areas to consolidation settlements.

Table 5 Previous and current tenure status of inhabitants of selected illegal subdivisions

tenure status	in previous settlement (%)*	in current settlement (%)**
tenant/sharer	79.2	11.0
owner***	15.4	78.0
other	5.4	11.0
total	100.0	100.0

*: N = 260 (households)

** : N = 255 (households)

***: including 'plot invaders'

Source: Rio de Janeiro municipal government

Indeed, figures from the previously mentioned survey in four illegal subdivisions show that some 91 percent of the inhabitants already lived in Rio de Janeiro before they bought the plots on which they live. Table 5 indicates that as assumed above, most inhabitants rented or shared a house before they settled in one of the research areas (nearly four out of every five) where the majority (78 percent) belongs to the group of homeowners.

One of the main factors which render illegal subdivisions particularly suitable consolidation areas is that the de facto security of tenure is relatively high. A leading member of the dweller association of Parque Boa Esperança II (Campo Grande) states that "dwellers feel much more secure with respect to land tenure in a subdivision (even an illegal one) than in a favela". The most important reason for the feeling of security among illegal subdivision dwellers is that, in spite of the official denouncement, informally subdividers and government officials cooperate.

Informal cooperation may eventually lead to the gradual physical, legal and social improvement of settlements. This is clearly reflected in land prices.

In search of a plot (late 1990) in Campo Grande, a concentration area of illegal subdivisions, the authors were confronted with significant land price differences across settlements. In a more or less consolidated area with few vacant plots, a piece of land (153m²) costs some Cr\$ 734,000³. In contrast, the price of a similar sized plot in an undeveloped, hardly occupied scheme costs CR\$ 99,800.

³ US\$ 1.- = CR\$ 150,- (December, 1990).

Although the price difference between legally approved subdivisions and illegal subdivisions is very significant, most households do not have a real choice between these options.

A comparison between legal and illegal land subdivisions that are similar in terms of location, reveals that, given the difference in infrastructural quality, land prices differ surprisingly little. In Campo Grande, a plot in a new, uninhabited subdivision (153m²) would fetch CR\$ 190,000, whereas the price of an illegal plot of a comparable size is CR\$ 100,000 to 120,000. In Jacarepagua newly delivered plots in legal subdivisions cost some CR\$ 2,300 a square metre, while freshly subdivided 'illegal land' is priced at about CR\$ 1,600 a square metre (O DIA, 1990).

One limitation of legal land options is that they require a guaranteed monthly income. As many low-income households are dependent on informal jobs they cannot produce a formal proof of their income. On the other hand, illegal land options require a relatively high initial cash payment (about one half). Perhaps, subdividers count with the possibility that part of their clients do not pay all the instalments.

The main point in that respect, however, is that the number of plots in legal subdivisions - which clearly have a higher infrastructural quality - is severely restricted. It could be argued that, given the limits to the financial capacity of the demand group, land brokers choose to maximize profits through illegal channels, while some of them may use legal channels of land delivery on a small scale to cover up their illegal activities. Profit maximization is reached by not adhering to the norm that 35 percent of the total scheme area is to be donated to the government for public (community) uses. Another way to increase profits is not to provide the prescribed infrastructure and services.

2.3

Government responses to illegal subdivision

Through time the government attitude towards illegal subdivisions has changed from ignoring the phenomenon, to accepting older, consolidated subdivisions. Inhabitants of illegal subdivisions have organized themselves to strengthen their claim for government support in their efforts to upgrade their habitat environment. Among other things this resulted in the promulgation of federal law 6766 in 1979. It mainly aims at protecting the clients of land brokers by stipulating the formal requirements regarding land subdivision. The law includes the following obligations:

- Approval of the scheme by the municipal government, the State Water and Sewerage Company, the State Department for Parks and Gardens, the Department for Rivers and Lakes and the State Company for Geotechnical matters.
- Registration of plots and plot-owners in the Real Estate Public Register (within 180 days after the approval of the scheme).
- Formal permission for implementing the infrastructural plan (road/lane network, paving, water supply, drainage, sewerage etc.).

In 1983, the municipal government of Rio de Janeiro started a working group named "Núcleo de Regularização de Loteamentos" which should take decisions as regards public approaches to illegal subdivisions. This working group was formally institutionalized at the municipal level (Decree 7290) in December 1987. This organization aims at upgrading the relatively consolidated areas and legalizing land tenure. Of the total of 507 subdivisions, 208 settlements are proposed to be regularized. So far, regularization has taken place in only 86 of these areas. There is no formal public answer as yet to the continuing proliferation of new illegal subdivisions.

2.4 The actors involved: points of view and relationships

2.4.1 The dwellers and their fight for justice

In December 1990, the authors visited several real estate agents in search of a residential plot. One of these visits is described in detail below.

As most (informal) land brokers, Mr. "X" presented well-documented plans of his new scheme. Without prior knowledge nobody would guess that they concerned an illegal activity. In fact, the estate agent seemed to be very comfortable playing his role. Several times he stressed the uniqueness of the opportunity he had to offer and painted a rather rosy picture of the future outlook of the settlement. However, there was no possibility of visiting the site because, apart from designing plans nothing had been done as yet. Mr. X suggested that it would be better to have a look at the plan instead. He showed a big drawing which looked very much like the sort of drawing required for getting formal approval from the municipal government. The plan displayed 60 plots of some 160 m² located along four streets of which only one was connected to the existing main road. The others ended in a "cul de sac". The seller said that the drawing only presented the rough plan. It could be changed; e.g. there was a big plot reserved for a school which could be

transformed into a street, linking the "cul de sac" area to the main road.

No legal documents were required to apply for a plot. The legal deed would come in the end. The price of a (162m²) plot was Cr\$ 690,000 in cash (or a down payment of Cr\$ 290,000 and 60 monthly installments of 1.5 minimum salaries).

The above illustrates that, initially, land brokers do all they can to present their real-estate transactions as formally approved activities. It seems to be some kind of game in which both the plot seller and his clients participate. After some time, when the illegality of the scheme comes into the open, the clients may claim that they have been misled. However, given the dimensions which the illegal subdivision of land has assumed and the common knowledge of this phenomenon, one would tend to argue that the eventual disillusionment amongst the dwellers and their fight against subdividers is all part of the game. Even if they had known beforehand that they were buying a plot in an irregular scheme, they simply cannot but play their victim role, because they do not have an alternative (equally viable) housing option. Obviously, their victim role helps them in their claim for government support in providing infrastructure and services.

The open opposition between dwellers and subdividers, which has been briefly discussed in 3.1, is partly rooted in history. Many of the first subdividers behaved like feudal lords. Whenever a buyer failed to pay his debt for three consecutive months, they exerted pressure on him. Sometimes this could take rather violent forms: the houses of the dwellers concerned were entered and the inhabitants were beaten up. In some cases they were even murdered. Tired of being susceptible to such practices, some dwellers decided to fight back. Little by little the exploitation of their weak position, made large groups of dwellers rebel. It became clear that it was necessary to join hands. Leaders emerged and meetings were organized (from an interview with a prominent member of a dwellers association and participant in the 'Núcleo').

In the course of time, the inhabitants of illegal subdivisions have organized themselves. They have created dwellers' associations to strengthen their claim for legalization and regularization. In general, they do not care who takes responsibility for fulfilling their demands for the physical improvement of their neighbourhoods: the government or the land broker.

The pressure exerted by dwellers' associations eventually resulted in the promulgation of a federal law (6766, 1979) stipulating the formal obligations of land subdividers (see also 3.3). In 1983, the "Núcleo de Regularização de Loteamentos" was created to plan and take action with respect to illegal subdivisions. Until 1987 it closely cooperated with the state government which tended to solve some problems by taking

over the responsibilities of illegal subdividers. In 1987 the "Núcleo" was institutionalized at the municipal level. From that time onwards illegal subdividers have been more and more involved in the negotiations. Although from a legal point of view this can be regarded as a positive move, in practice it has complicated and delayed the regularization and legalization process.

"When the "Núcleo" worked together with the state government, the work was easier because the attorneys of the state did not adhere to a strictly legal point of view. At that time, subdividers were never asked to participate in the "Núcleo" and the problems were solved between the government and the dwellers. Currently, the municipal government negotiates with the subdividers. This is a negative aspect" (from an interview with a prominent member of a dwellers' association).

Today (1990) meetings are organized in different neighbourhoods to inform dwellers about their rights and possible strategies to reach the aim of regularization. Nonetheless, it has been stated that, in general, the popular movement is going through a crisis: many of the participants are said to be co-opted by political parties and it is argued that to mobilize dwellers for activities such as demonstrations is more difficult than it used to be (from interviews with members of dwellers associations).

2.4.2

The point of view of the subdividers

The subdividers largely blame the government for the existing situation: the illegal nature of their activities. The president of the national association of subdivision entrepreneurs even states that "unfortunately, nobody can punish the municipal government for blocking a more appropriate use of land, for instance, low income housing, by applying a rigid legislation" (from an interview: our own research).

He further stresses that under the current regulation and procedures legal subdivision is an unprofitable business. He argues that planning standards should be lowered in order to incorporate illegal incremental settlement development in the legal and planning framework. In that respect it is stated that the federal law 6766 (1979, see above) has been designed to 'sabotage' the low-income land-subdivision process.

2.4.3

The point of view of the government

Although there is a specific municipal organization (the 'Nucleo') to deal with the issue of illegal subdivision, there is no

clear cut public point of view that is shared by the local government as a whole. This can be attributed in part to the lack of a coherent municipal land and housing policy stipulating aims and strategies. Another reason for the diverging opinions on illegal subdivision is derived from the fact that different government officials approach the subjects from different professional fields, each entailing a specific point of view.

Public attorneys dealing mainly with the legal aspects tend to stress the fact that illegal subdivision is a phenomenon which takes place outside the law and, therefore, should not be tolerated, let alone promoted: "it is something one does not wish for a city; it leads to chaos and lawlessness" (from an interview; our own research). Nonetheless, there also seems to be a growing awareness that existing planning standards, laws and regulations are inadequate. In any case, it seems to be generally accepted that the relationship between urban practice on the one hand, and the legal planning framework on the other, should somehow be improved.

Urban planners regard the issue as a threat to orderly (planned) urban growth. As such it is thought detrimental to the development of the urban system as a whole. On the other hand, there clearly is some recognition of the fact that low-income groups have no viable alternative; for them informal land delivery systems constitute the main channel through which they can satisfy their housing needs. Thus, when combining urban practice with a notion of social justice, one sees a case for incorporating illegal incremental land development in a municipal housing policy.

2.4.4

Distribution of costs and benefits among the actors

The argument is warranted that the illegal subdivision of land is a highly profitable undertaking, mainly because the costs and hardships involved in turning a largely uninhabitable area into a neighbourhood offering reasonable living conditions are borne by the government and the dwellers. The financial threshold of entering into this business is relatively low. The bulk of the costs involved concern the acquisition of land (in some cases even these costs are absent). In addition, returns follow relatively soon after investment.

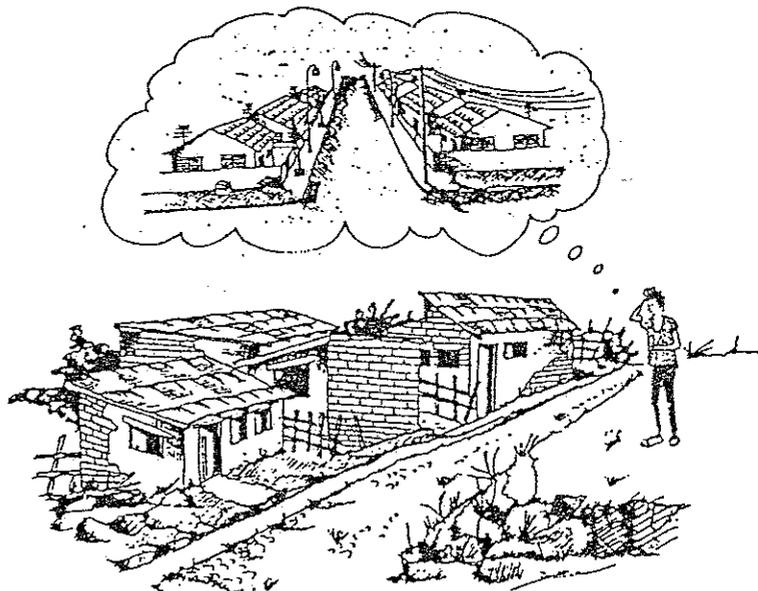
Currently the government is attempting to force subdividers to take up their planning and servicing responsibilities. It is not clear as yet what the results of this approach have been so far. Tentative evidence, however, suggests that apart from the delay of regularization and legalization programmes, not very much is achieved.

While individual government officials and politicians may profit from the existence of illegal subdivision, the government as a whole is a net loser. It has to deal with the negative consequences of illegal subdivisions through such bodies as the 'Nucleo'.

Apart from the post hoc policy of regularization, the government also tries to prevent a further growth in the number of illegal subdivisions through informing potential clients of informal land brokers about the illegal nature of many land subdivisions. In the context of an information campaign, booklets were issued by the local government (cover displayed below). Arguably, such an information campaign can only be successful if the potential clients of informal land brokers can choose from different land and housing options. As long as this is not the case, the illegal nature may be taken for granted by plot buyers, while - notwithstanding their awareness of the legal aspects - they will play their ignorant, victim role (what else can they do?, see also above).

O QUE VOCÊ PRECISA SABER SOBRE LOTEAMENTOS

como garantir seus direitos
quais as obrigações do loteador
o que fazer quando o loteamento for irregular



What one needs to know about

Land Subdivisions

- *How to secure ones rights*
- *The subdivider's obligations*
- *What to do in case of illegal subdivision*

 PREFEITURA
DA CIDADE
DO RIO DE JANEIRO

GOVERNO LEONEL BRIZOLA
PREFEITO SATURNINO BRAGA

2.5

Government policy: future directions

From the interviews with several government officials (our own research), there is clearly a growing awareness of the necessity somehow to incorporate illegal incremental land development in the existing regulatory framework (for instance by lowering standards). This growing awareness is based on three main observations:

- There is an obvious discrepancy between the letter of the law (in the case of planning and building standards) and urban reality. In that respect a government official responsible for legal matters states that (in legal terms) "the illegal subdivider sells plots which do not really exist". Clearly the number of 'non-existent plots' has grown tremendously during the past decades.
- Past experiences with public housing supply to low income groups have been rather disappointing (at least in terms of reaching the target group). In addition, the feasibility of future public low-income housing projects is undermined by economic recession which has led both to cuts in government spending (including housing projects) and an impoverished target group. Hence, a realistic approach to the low income housing problem can hardly depend solely upon government action and has to face the fact that illegal land delivery systems have been the main channels through which the urban low income groups have gained access to land and housing.
- The chronic shortage of financial resources at the municipal level, which is particularly relevant under present economic conditions and macro-economic policy, points to the need for a more efficient collection of taxes and fees. In that respect, legalizing and regularizing illegal forms of housing could substantially broaden the existing tax base.

An interesting option brought forward by one of the interviewees concerns a form of public/private partnership in which the land broker deals with the acquisition, subdivision and sale of land, while the government is responsible for infrastructure and service provision, including cost-recovery. In a way this proposition can be regarded as a formalization of existing practices. On the other hand it offers the opportunity to minimize the costs of illegality (both to the government and the dwellers) and reduce the windfall gains of land brokers (without making the land business completely unprofitable).

3

Conclusions

As we have argued in the preceding chapters, economic recession and national economic policy have raised the financial threshold to both formal public housing and informal commercial land development (illegal subdivision). This is reflected in the emergence of marginal slums and pavement dwellers. Simultaneously, it implies that informal land brokers have moved up-market. It is still unclear to what extent this has resulted in a structural change in the composition of the urban land and housing market. If it has, it obviously is a negative development in terms of the living conditions of the urban poor. It once more would point to the fact that housing problems are essentially economic problems, strongly related to the macro-economic forces and policies which determine the real income of the poorer sections of the population.

As far as illegal subdivisions are concerned, government responses have moved from sheer ignorance to acceptance. Currently, the municipal government is implementing a regularization and legalization policy. Such an approach seems to be a step in the right direction. Basically, it can be regarded as a formal recognition of past informal practices. Nonetheless, it entails many practical problems.

An important question in that respect is who should bear the responsibility for and costs of the regularization of illegal subdivisions. Obviously, during the current phase of austerity, the government can not subsidize such activities. Besides, in practice, cost-recovery from the beneficiaries is fraught with problems. Another approach would be to address the subdividers who, in fact, are the ones responsible for service and infrastructure provision and formal registration of titles. This approach is currently followed. However, it does not appear to be the key to the solution (see 3.4.1).

Apart from practical and legal problems, the main question at stake here is that of profitability: will land subdivisions remain a profitable undertaking when subdividers are forced to live up to the applicable planning standards? Naturally, it will at least become a less attractive undertaking. Nonetheless, it seems important to incorporate the trade-off between standards and profitability in a more or less balanced approach to the matter.

Another major problem concerning the current public approach is that government action always lags behind reality. While the government informally accepts the creation of illegal

subdivisions - in fact, it has no other option in the absence of viable alternative land and housing delivery - later on it is confronted with a fait accompli. In such a situation obvious difficulties arise in dealing with subdividers. Thus the question arises whether it would be possible to incorporate land subdivisions in a legal planning framework (recognizing the above described trade-off) from the day they are created.

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