

STREET PEOPLE IN BRAZIL: RIGHT TO THE CITY, HEALTH AND CITIZENSHIP

Rosiane Pinheiro Palheta

Departamento de Ensino e Pesquisa da
Fundação Hospital Adriano Jorge
Manaus-Amazonas
<https://orcid.org/0000-0002-0792-0462>

Evelyn Fernanda de Oliveira Santoro

Scholarship holder of the Scientific Initiation
Support Program by the foundation: Hospital
Adriano Jorge
Manaus-Amazonas
<http://lattes.cnpq.br/6355395814112568>

All content in this magazine is licensed under a Creative Commons Attribution License. Attribution-Non-Commercial-Non-Derivatives 4.0 International (CC BY-NC-ND 4.0).



Abstract: The work consists of a systematic review of the literature that used historical and qualitative materials, as well as an analysis of the legislation that deals with the homeless person and their rights with bibliographic, legislative and documentary consultation on the subject. The objective was to analyze the national scientific production and on the rights of homeless people in terms of access to public and quality health, the right to the city and citizenship rights. There are few studies on the subject, being identified 09 works that speak specifically about the right to the city and the homeless population.

Keywords: Population in situation of street, rights, health, citizenship, City.

INTRODUCTION

Studies on homeless people in Brazil are scarce, especially with regard to fundamental rights such as health, the right to the city and citizenship, which is a challenge since talking about a population with a series of violated rights is extremely complex because once on the street, this person experiences various forms of violence.

The reality of the homeless population is very different, the path they traced to reach the homeless situation is, in itself, a violation of rights. The street population lives in countless situations of violation of basic rights, one of which is the right to housing and a dignified life. On the street, they live situations of physical, social and institutional violence that they carry throughout their existence, evidencing childhood and street life traumas that come to light whenever they are confronted with other realities and in contact with other people. These traumas can be exacerbated, especially in isolation.

In this sense, it is important that research is carried out for a more effective analysis of the violated rights of this population, not only the history, or how it arrived in this situation, but,

above all, how they live in the street situation and how this affects their individual rights and collective rights.

One of the important issues when talking about the right of homeless people concerns the right to the city, because they use public spaces for their production and reproduction of life and thinking about cities that are sustainable is one of the goals of sustainable development on the agenda. 2030 of the UN. The work tries to give an overview of the citizenship of homeless people and the rights to health and to the city as the fundamental for citizenship since studies have been timid, there is little research on the subject in Brazil. In the current context, there has been a significant increase in the number of people living on the streets in the last year since the pandemic showed its first signs, hence the need for new investigations to support the development of care strategies, intervention and implementation of policies, which reveals the importance of this type of research.

In this sense, the current article seeks to understand how these violations of rights occur, and what are the main breaches experienced by these people and what are the actions taken by the State to try to minimize or remedy the problem of violation of rights suffered by people living on the street, that is, which rights are broken in the lives of these people that affect their health, citizenship and the right to the city.

METHODOLOGY

The work consisted of scientific research that used historical and qualitative materials, as well as analysis of the legislation that deals with the homeless person and their rights with bibliographic, legislative and documentary consultation on the subject.

The bibliographic research was carried out from the perspective of a literature review with the objective of analyzing the national

scientific production and on the rights of homeless people in terms of access to public and quality health, the right to the city and citizenship rights.

The guiding question of the research was made by the following questions: Which citizenship rights are violated for the population that lives on the streets and that directly affect their health and the right to go, come and stay on the streets? What does the relevant legislation value? The search will be based on scientific productions indexed in the Latin American and Caribbean Health Literature database (Lilacs) published by SciELO, PubMed and Scopus. The capture of studies in the bases was carried out by the descriptors: Health, street population and rights.

As this is a descriptive and review research, the methodology used for data collection aims to describe the characteristics of the main problems faced by the homeless population in accessing their rights guaranteed by law in their condition of life on the streets.

After the collection, the data will be tabulated and analysis based on the studies found as well as on the legislation on the subject and a report will be presented for later publication.

RESULTS

A bibliographic survey was carried out between January and February on LILACS and SciELO platforms based on the descriptors “right to health”, “right to the city” and only 09 works were found that dealt with the right to the city and the homeless population.

TITLE	YEAR OF PUBLICATION	AUTHOR
<u>The homeless population's right to the city and public spaces.</u>	2020	Mario Augusto Paixão Silva Nelson Saule Junior
Social invisibles: the denial of the right to the city to the homeless population	2016	Domingos do Nascimento Nonato Raimundo Wilson Gama Raiol
The right to the city of homeless people in the face of the covid-19 pandemic	2021	Brígida Crisóstomo da Silva Vanessa Cristina Lopes Júlia de Paula Vieira
Considerations on the human right to health	2004	Pericles Asbahr
Public policies for the homeless population	2011	GILMAR TRINDADE DOS SANTOS
The construction of a policy for the inclusion of homeless people: advances and challenges of intersectoriality in health and social assistance policies	2020	Alison Oliveira Francini Lube Guizard
City, homeless population and organizational studies	2016	Bruno Eduardo Freitas Honorato2 Luiz Alex Silva Saraiva3
Access to health services by the homeless population: an integrative review	2022	Rebeca de Andrade1, Alane Andréa Souza Costa1, Elyana Teixeira Sousa1, Pablo Cardozo Rocon
Surviving on the streets: paths of resistance to the denial of the right to health	2020	Aléxa Rodrigues do Vale Marcelo Dalla Vecchia

Prepared by the authors, 2022.

The article by Silva and Júnior (2020) deals with public spaces, as a locus of coexistence and enjoyment of the common heritage that is not sustainable and much less accessible to the homeless population. forms of discrimination due to the social status of the inhabitants, such as the PSR. The Municipal Public Power of São Paulo carries out actions to support the homeless population in distant spaces of this territory, with the intention that this contingent migrates to other regions of the city, preferably far from the central region. In addition to the non-availability of basic hygiene material, mainly in the *cracolândia* region.

Silva and Saule Júnior (2020) when talking about “The Right to the City of the Homeless Population and Public Spaces” draws attention to the need to understand that all people who permanently or temporarily inhabit urban spaces are holders of the right to the city and the municipality, as holder of constitutional competences on urban policy, can establish that the inhabitants who live in its territory are the holders of this right: the right to come and go, access to public spaces, poverty reduction, combating social exclusion and preventing environmental damage.

The general objective of the work by (Silva et al, 2021) is to explain how the COVID-19 pandemic period worsens the situation of vulnerability of homeless people. As specific objectives we have: to explain how the invisibility of this group makes it difficult to access information for registration and public policies; to characterize people living on the streets; conceptualize the right to the city; and relate the COVID-19 pandemic to homeless people. (Silva et al, 2021).

In general the texts turned to:

- To demonstrate that the Brazilian Constitution, by consecrating health as a fundamental legal asset and a right for all and

indicating policies, means and resources for the satisfaction of the right to health, made it justifiable, outlining its first condition of legal effectiveness. As no right is absolute, the limits of implementation of the health law are discussed, namely: the legal and factual reserve of the possible, the principle of proportionality and the reserve of consistency.

- To carry out a historical diagnosis of the homeless population in Brazil, from the year 2000, describing the process of conformation of the actions that are developed by Organs public agencies responsible for the formulation of the National Policy for the Homeless Population.

- To analyze the elaboration of the policy for the inclusion of homeless people, within the scope of social assistance and health actions in the Federal District (DF). Specifically, it seeks to identify conflicts; map the actions and strategies designed; and understand the advances and challenges that marked this context.

- To analyze the access of the Homeless Population (PSR) to basic, outpatient and hospital care and also the objective to investigate the paths of health care of the PSR in a small municipality.

The work of Nonato and Raiol (2016) sought to reflect on the deliberate and systematic process that makes life and the enjoyment of the city of homeless people in Brazil invisible, discussing the perniciousness in the light of human rights.

For the authors, the right to the city is denied when, in a deliberate and systematic way, when the Government prevents service to homeless people in public services, proof of the place of residence; identification documents, impediment to entering or staying in commercial establishments or public spaces since one of the characteristics of the homeless population is the lack of documentation.

The text exposes silent and explicit ways that deny the exercise of the right to the city by homeless people, who are prevented from accessing and enjoying the advantages, goods and services and opportunities available in cities. From the reality under analysis, the challenge of identifying which concrete actions can be chained by the Public Power in order to reverse this unsustainable and horrendous situation becomes clear. A fair and adequate political confrontation by the Brazilian State is necessary in the face of the numerous pathetic practices of institutionalized or non-institutionalized violence that such people suffer, combined with the high degree of misery they experience or experience. (2016:98).

Is it possible to analyze the street situation in the city, based on knowledge related to the analysis of organizations? This question is the basis of a proposal to bring city studies and organizational studies closer together, in an attempt to expand the boundaries of what is taken as an organization and, thus, what can be the object of organizational analysis.

The studies focused on these issues, but they did not focus on the determinant aspects of housing or the lack of it, nor did they analyze how and why these people are excluded from the city in different ways and what is the role of society in this exclusion.

Like health, the right to the city is a fundamental right for the individual, as established in Resolution N° 40, Of October 13, 2020, which provides for guidelines for the promotion, protection and defense of the human rights of homeless people, in accordance with the National Policy for Homeless People in the chapter on the right to the city and housing Art. 22 and 23:

“It is the responsibility of the State to guarantee and promote the right to the city, land, housing and territory, and it must formulate and implement adequate public

policies for this purpose, in addition to establishing mechanisms to repair these rights when violated and to prevent further violations. The State must guarantee homeless people the right to the city, consisting, among others, of the right to: come and go; remain in public space and access public facilities and services.

Single paragraph: The removal of people in public spaces is prohibited because they are homeless, and the improvised home of the homeless person is equivalent to housing to guarantee their inviolability”. (Resolution No. 40, of October 13, 2020).

According to the New Urban Agenda Statute of Cities, approved at the United Nations Conference in 2016, its paragraphs 11 and 12 clearly argue that the right to the city is not restricted, but the right of all, promoting inclusion without any type of discrimination. and the right of every human being to come and go:

11. We share the vision of cities for all, with regard to equal use and enjoyment of cities and urban agglomerations, seeking to promote inclusion and ensure that all inhabitants, present and future generations, without discrimination of any kind, can inhabit and build just, safe, healthy, accessible, resilient and sustainable cities and towns and cities and foster prosperity and quality of life for all. We emphasize the efforts made by national and local governments to enshrine this vision, referred to as the right to the city, in their legislation, political declarations and diplomas. 12. We aim to build cities and urban settlements in which all people can enjoy equal rights and opportunities, as well as the fundamental freedoms, guided by the purposes and principles of the United Nations Charter, including full respect for international law. In this regard, the New Urban Agenda is based on the Universal Declaration of Human Rights, international human rights treaties, the Millennium Declaration and the results of the 2005 World Summit. (NEW URBAN AGENDA, UN, 2016, p. 5).

According to the same, every human being who inhabits permanently and temporarily has the right to the city protected, and the Federal Constitution Art. 182 confirms this when he says that the general guidelines aim at the full development of the city's social functions and guaranteeing the well-being of its inhabitants.

However, homeless people are constantly excluded from urban spaces, they are stigmatized and discriminated against by the population itself, generating exclusion from access to basic services and public spaces. According to SILVA and SAULE (2020) "Public spaces must fulfill their social function according to which forms of discrimination cannot be established, they must be free of charge and be free of physical, legal and architectural barriers that prevent the presence of people in situations of vulnerability.

Low-income people who are in a situation of vulnerability are in constant physical and psychological suffering, surrounded by violence, lack of security and hunger. In addition, they are still coldly discriminated against by citizens who often do not provide assistance and still feed disgust and neglect towards these people. This type of mentality, according to Silva and Saule (2020) apud Silva (2009), results in hygienist practices, camouflaging the social phenomenon of extreme poverty through massacres (as was the case of the Massacre of Sé), exterminations and forced recollection of this population, practices that are often often conducted by the public bodies themselves.

Resolution N°. 40, of October 13, 2020, is the most recent on the guidelines for the promotion, protection and defense of the human rights of homeless people, according to which this segregation in Art. 13: "The suspension and expulsion of homeless people from public services constitutes a violation of human rights as a form of conflict resolution".

It is known that in practice this does not happen, according to the online newspaper *Catraca Livre*, an article published on July 19, 2021 brings the unfortunate story of the mayor of Monte Mor, in the interior of São Paulo, who expelled people from the street. of the city with the pretext that he would not let the place "turn into garbage". Although revolting, stories like these are quite common. Art.14 and sole paragraph of the same resolution presents the role of the State in dealing with this population, having the duty to act as a facilitator to face and overcome the individual in a situation of vulnerability on the streets, offering programs of access to work and income and to a decent home:

Art. 14 The federative entities must promote structuring public policies that have as their main objective the construction and execution of plans to overcome the homeless situation, adopting strategies that focus on the immediate access of the homeless population to housing. Single paragraph. Access to housing must be linked to work and income promotion actions and other benefits and subsidies, until the beneficiary is able to guarantee their adequate livelihood during the execution of programs, such as Housing First. (RESOLUTION No. 40. 2020. p. 144).

Article 23 of Resolution No. 40, 2020, p.144 guarantees homeless people the right to the city, such as coming and going, the right to remain in public spaces and free access to public facilities and services. In addition, in its art. 24 equates the improvised home of the homeless population with housing to guarantee its inviolability.

Citizenship is the condition of belonging of a person to the community of a nation, and as a consequence of this integration, their civil, political and social rights and duties are guaranteed to all through the Federal Constitution. Our Magna Carta also states in its article 1ª: "The federative republic of

Brazil, formed by the indissoluble union of the States and Municipalities and the Federal District, constitutes a Democratic State of law and is based on I- sovereignty, II- citizenship, III- the dignity of the human person, (...)" In addition, art. 5th item LXXVII of the same law confirms that the acts necessary for the exercise of citizenship must be free of charge. (FIA, 2019).

Another fundamental right for the homeless is the right to citizenship. According to Art.35: "The homeless population must be guaranteed the right to social assistance, through wide access to services, programs, benefits and social assistance projects, from the Unified Social Assistance System (SUAS), from the state or private public network, at the levels of Basic and Special Social Protection of Medium and High Complexity, as well as the Single Registry for social programs of the federal government."(RESOLUTION No. 40. 2020. p. 144).

The Sustainable Development Goals (SDGs) adopted in 2015, from the meeting of Heads of State and Government at the United Nations Headquarters in New York, which was characterized as an important decision made by UN member countries in favor of of a World Agenda for Sustainable Development, which must be fulfilled by the year 2030, the goal 11 of the item sustainable cities and communities: Making cities and human settlements inclusive, safe, resilient and sustainable: Ensuring access to housing for all safe, adequate and affordable access to basic services and to urbanize slums. "By 2030, guarantee everyone's access to decent, adequate and affordable housing; to basic services and urbanize precarious settlements in accordance with the goals assumed in the National Housing Plan, with special attention to groups in vulnerable situations."

In the last 10 years, the number of people living on the streets has increased

dramatically in the country, but in the 2020s to the present day, this number has increased dramatically with the deepening of the global health crisis generated by the covid-19 pandemic. But other classic factors that are related to the permanent social inequalities in our country are what have perpetuated this phenomenon. The lack of jobs, a consequence of the economic crisis, added to the pandemic resulted in an increase in the number of people living on the streets. According to a technical note from the Institute for Applied Economic Research (IPEA), the number of homeless people in Brazil has grown by 140% in the last 10 years, as shown in Table 1:

PERIOD	NORTH	BRAZIL
SEPTEMBER 2012	3.218	92.515
MARCH 2013	3.280	96.560
MARCH 2014	3.573	105.270
MARCH 2015	3.999	120.575
MARCH 2016	4.515	137.849
MARCH 2017	5.447	156.898
MARCH 2018	7.406	183.020
MARCH 2019	8.299	202.631
MARCH 2020	9.626	221.869

1. Estimation of the homeless population in Brazil.

Source: SBS apud IPEA, (SET 2012 – MAR 2020).

Before the Federal Constitution of 1988 there is no evidence that Brazil had policies aimed at homeless people, usually the service to the poor and indigent was done by churches or small groups that were willing to help these people. In the infraconstitutional laws for more than two decades after the dissemination of the Federal Constitution, there was nothing that pointed to a protection of the rights of homeless people (OLIVEIRA, 2016).

It was only after the terrifying massacre that led to the murder of several homeless

people known as the “Chacina da Sé”, which took place in August 2004, that this social group, previously invisible, began to have some visibility.

The tragedy was considered as a milestone for this population, from which, people living on the streets organized themselves and began to claim rights in an initial form called the National Movement of Street Boys and Girls.

In 2005, after the 1st National Meeting on Homeless Population by the Ministry of Social Development and Fight against Hunger (MDS, 2005), where public policies aimed at homeless people were discussed. Another important triumph was the Federal Decree of October 2006, which constituted the Interministerial Working Group with the function of preparing projects and presenting policy recommendations for the social integration of homeless individuals (COSTA, 2020 apud BRASIL, 2006), this decree was decisive for the formation of Decree nº 7.053 of December 2009, which established the National Policy for the Homeless Population and its Intersectoral Monitoring and Monitoring Committee (COSTA, 2020 apud BRASIL, 2009), a great achievement that brought real results and successes for this part of the population.

However, there are some national institutions dedicated to the care and reception of people in situations of vulnerability, such as: Street Consultation Teams (Ecnar); **Single Social Assistance System (SUAS) which provides the Specialized Service for Homeless People; Single Registry for social programs; Shelter units and POP centers; Specialized Reference Center for Social Assistance (CREAS); ACCESS Work, for access to work; Protection Service and Specialized Assistance to Families and Individuals (Paefi);** in addition to specific Non-Governmental Organizations of each municipality.

In the city of Manaus, among governmental and non-governmental actions, the following are available: Intersectoral Committee on Public Policies for the Care of the Homeless Population (CIPPR), which includes the Public Policy Committee for the Care of the Homeless Population, the Departments of Justice, Human Rights and Citizenship (Sejusc), Health (Susam), Social Assistance (Seas), Education (Seduc), the Municipal Departments of Health (Semsa), Women, Social Assistance and Citizenship (Semasc), Education (Semed), the Doctor Thomas Foundation, the Street Clinic, the Casa Amine Daou, the Pop Center, the Casa do Migrante Jacamim, the State Council for the Elderly, the Amazon Harm Reduction Association (Ardam) and the Catholic Church’s Homeless Pastoral. All these institutions work together to welcome homeless people in the city of Manaus.

FINAL CONSIDERATIONS

Conducting scientific research with the homeless population is a profound challenge, it is a way of giving visibility to this social group and the starting point for the elaboration of social actions aimed at them, especially with regard to how state policy must advance in intersectoral strategies and the structuring of equipment to make them effective.

The various forms of exclusion to which they are subjected is a reflection of the social inequalities that prevail in the country and one of the most striking forms is the right to the city, which is characterized by a double exclusion since the city, the street, is configured as their home.

In this work, works were analyzed that showed how much the homeless population has been stigmatized and excluded from the right to the city and this is notorious when we think about the unhealthy places where they are pushed. In short, the results indicate

a great prejudice, violation of rights, lack of accessibility and of policies that encourage the overcoming of this condition and that goal 11 of the item sustainable cities and communities is met, especially to reduce social inequalities and guarantee the right the city.

REFERENCES

BRASIL. Constituição (1988). Constituição da República Federativa do Brasil. Brasília, DF: Senado Federal: Centro Gráfico, 1988.

SCHULTZ, Duane P; SCHULTZ, Sydney Ellen . Abraham Maslow: teoria da hierarquia das necessidades: O desenvolvimento da personalidade. *In*: SCHULTZ, Duane P; SCHULTZ, Sdyney Ellen. **Teorias da personalidade**. 3 ed. Sao Paulo : Cengage Learning, f. 264, 2015. 528 p. cap. 9, p. 245-266.

COSTA, Weully Cordeiro. **Moradores em situação de rua: análise dos direitos humanos violados**. Direitos Humanos em um mundo em transformação... Campina Grande: Realize Editora, 2020. p. 461-476. Disponível em: <<https://editorarealize.com.br/artigo/visualizar/65093>>. Acesso em: 26/01/2022 21:41

SILVA, Mário Augusto Paixão Da. SAULE JUNIOR, Nelson. **O direito à cidade da população em situação de rua e os espaços públicos**. Revista Científica Multidisciplinar Núcleo do Conhecimento. Ano 05, Ed. 11, Vol. 10, pp. 42-66. Novembro de 2020. ISSN: 2448-0959, Link de acesso em março de 2022, disponível em: <https://www.nucleodoconhecimento.com.br/lei/situacao-de-rua>, Prefeito expulsa moradores de rua para 'cidade não virar um lixo'. **Catraca Livre**, São Paulo, p. 1-1, 19 jul. 2021. Disponível em: <https://catracalivre.com.br/cidadania/prefeito-expulsa-moradores-de-rua-para-cidade-nao-virar-um-lixo/>. Acesso em: 23 mar. 2022.

ALMEIDA, Rafael Salatini. Cidadania e minorias sociais- um estudo introdutório. *In*: ALMEIDA, Rafael Salatini. **Cidadania e minorias sociais- um estudo introdutório**. [S. l.: s. n.], 2016. cap. 1.3, p. 29. Disponível em: <https://aberto.univem.edu.br>

FIA. Cidadania: o que é, direito dos cidadãos e exemplos. **Fundação Instituto em Administração**, 24 de junho de 2019. Disponível em: <https://fia.com.br/blog/cidadania/>. Acesso em: 14/03/2022

IPEA INSTITUTO DE PESQUISA ECONOMICA APLICADA. **74: POPULAÇÃO EM SITUAÇÃO DE RUA EM TEMPOS DE PANDEMIA: UM LEVANTAMENTO DE MEDIDAS MUNICIPAIS EMERGENCIAIS**. Brasília: Livraria Ipea, 2020. 26 p. Disponível em: <https://www.ipea.gov.br/portal/>. Acesso em: 05 jan. 2022.

ASBAHR, P. Considerações sobre o direito humano à saúde. **Revista de Direito Sanitário**, [S. l.], v. 5, n. 3, p. 9-28, 2004. DOI: 10.11606/issn.2316-9044.v5i3p9-28. Disponível em: <http://www.revistas.usp.br/rdisan/article/view/79835>. Acesso em: 26 jan. 2022

SILVA, Mário Augusto Paixão da; SAULE JUNIOR, Nelson. O direito à cidade da população em situação de rua e os espaços públicos. **Revista Científica Multidisciplinar Núcleo do Conhecimento**, [S.L.], p. 42-66, 20 nov. 2020. Revista Científica Multidisciplinar Nucleo Do Conhecimento. <http://dx.doi.org/10.32749/nucleodoconhecimento.com.br/lei/situacao-de-rua>. Disponível em: <https://www.nucleodoconhecimento.com.br/lei/situacao-de-rua>. Acesso em: 10 maio 2021.

Resolução nº 40, de 13 de outubro de 2020, p.144. Disponível em: <https://www.in.gov.br/en/web/dou/-/resolucao-n-40-de-13-de-outubro-de-2020-286409284> Acesso em: 11 dez. 2021.

Ministério do Desenvolvimento Social e Combate à Fome. RUA, aprendendo a contar: Pesquisa Nacional sobre população em situação de rua. Brasília, dezembro de 2009 Disponível em: https://www.mds.gov.br/webarquivos/publicacao/assistencia_social/Livros/Rua_aprendendo_a_contar.pdf Acesso em: 11 jan. 2022

OLIVEIRA, Lais Santos. População em situação de rua no Brasil da invisibilidade à crise de inefetividade dos direitos humanos fundamentais. **Jus.com.br**, [S. l.], p. 1-2, 2 set. 2016. Disponível em: <https://jus.com.br/artigos/52032/populacao-im-situacao-de-rua-no-brasil>. Acesso em: 24 nov. 2021.