

The view from Santa Marta, a favela in Copacabana, in Rio's South Zone, includes Morro São João and Sugarloaf Mountain.  
Credit: Robert Harding Picture Library

# COMMUNITY LAND TRUSTS IN RIO'S FAVELAS

Could Community Land Trusts in Informal Settlements Help Solve the World's Affordable Housing Crisis?

By Theresa Williamson

## INTRODUCTION

For more than two decades, the Lincoln Institute's Program on Latin America and the Caribbean (LAC) has been working at the intersection of urban land markets, land-based financing, and affordable housing to address the rise in informal settlements and urban poverty in the region. The Institute has also focused on community land trusts (CLTs)—in which land is owned by the community and dwellings are owned individually—but primarily as they apply to housing issues affecting lower-income communities in the United States. These lines of work have converged as the idea of adapting CLTs to address informality in Latin America has gained currency among housing advocates and land policy experts.

We have seen that CLTs can work in informal settlements, thanks in no small part to the creativity, organizational skills, and commitment of the residents and supporters of the El Caño Martín Peña CLT in San Juan, Puerto Rico (see p. 19). The San Juan example is novel not only because it uses the CLT to ensure collective and long-term stewardship of land and affordable housing, but also because it regularizes, or provides titles to, several hundred informal, or illegal, households, which are also known as squatters. The state's willingness to grant property titles to the community was critical.

The appeal of CLTs in Latin America stems from their ability to offer residents the security of title to the property they occupy, which addresses a major dimension of informality, and to provide long-term housing affordability. Thus, as Theresa Williamson discusses in this issue of *Land Lines*, she is directing an effort to consider CLTs as a means to provide tenure security and preserve affordability in Rio de Janeiro's favelas. The LAC program is documenting the El Caño CLT and exploring the legal and political feasibility of the CLT model in Brazil and elsewhere in Latin America.

LAC research, courses, and projects in Latin America have reinforced the argument that regularization programs are a solution that paradoxically contributes to the informality problem. Regularizing existing settlements demonstrates a city's commitment to social equity and inclusion, but also attracts new occupations and necessitates remedial policies that would provide titles for existing settlements. The ideal approach would be preventative, whereby public authorities deploy a set of planning and financial tools to ensure that land markets produce serviced, affordable, and well-located plots of land to house most of their populations—in particular low-income households. This would include land value capture to fund infrastructure or inclusionary housing.

A preemptive approach is challenging, and abandoning regularization programs may be politically nonnegotiable. This is why CLTs are exciting. As Williamson explains, the community-based aspect of CLTs offers the potential to reduce the speculation and displacement that can accompany titling programs that target individual plots.

As we explore CLTs for informal settlements, we should keep a few questions in mind. First, can a model designed to promote affordable and secure housing in the United States be transferred to Latin America? Second, what would the successful implementation of CLTs in places like Rio de Janeiro look like? Third, what other land policy tools would be needed to tackle informality in LAC and, in particular, prevent future informal settlements?

— **Enrique Silva**, fellow and associate director, Program on Latin America and the Caribbean

## Land Rights in Brazil: Recognition and Threats to the Role of Favelas in the City

In Latin America, “regularization” laws, which grant formal, legal property title to residents of unofficial settlements, typically have the stated goals of providing a secure hold on the land, giving access to the services and infrastructure of the official municipality, and opening access to credit. Public policies attending such laws have varied from simply issuing title to bolstering that property transfer with infrastructure improvements, social services, and employment opportunities. The costs and results of these efforts have varied across the region, with little consensus on their effectiveness. A recent titling law in Brazil has raised concern among housing activists that, instead of offering stability, transferring property outright may produce the opposite effect and push people out of communities they've been a part of for generations.

With the signing of Law 13,465 in July 2017, Brazil's interim President Michel Temer created the potential for a flood of real estate speculation and gentrification in Rio de Janeiro's favelas. The controversial legislation encourages the full regularization of federal lands historically occupied by squatters. Some early settlers eventually received leases on the public land

they occupied, but the regularization measure grants favela occupants full legal land titles. In Brazil, 50 to 75 percent of public land is irregularly occupied, and backers argued that this justified the law. Much of this is land in the Amazon region that has been deemed “ungovernable,” but informal settlements on urban federal lands are also in the mix. The law breaks both with the Brazilian constitution's provision that land should fulfill a social function (i.e., to house people) and with Law 11,977 of 2009, which states that public land must remain in public ownership. Instead, under the new law, federal land—whether in the Amazon or Rio's favelas—is to be regularized by transferring ownership to its occupants, who can dispose of it as they see fit. And the establishment of this federal legislation has the automatic effect of encouraging states and municipalities to follow suit.

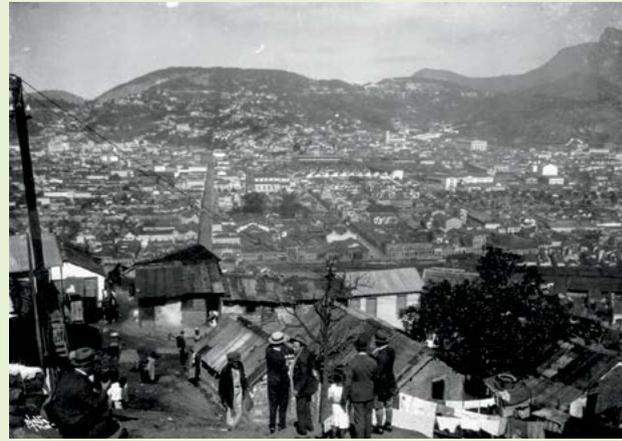
Comprehensive land titling in favelas is therefore likely to speed up in the coming years. What will this mean for the city's affordable housing stock? What will happen to Rio's favelas, particularly given that so many are on land with high speculative potential, built on hillsides above the city's most valuable real estate and offering stunning views? Will this law make them more, or less, secure?

Although the residents of Vila Autodromo held title to their homes, the favela was demolished before the 2016 Olympics. Credit: Catalytic Communities | RioOnWatch



## FAVELAS

The first informal settlement labeled a “favela,” today known as Morro da Providência, was established in Rio by ex-soldiers in 1897. They called the settlement “Favela Hill,” after a resilient spiny plant that grew on the hills where they’d fought in Brazil’s arid northeast. Though the word “favela” is seen as a translation of “slum” or “shanty-town,” there is no etymological basis for this. In recent years, a growing body of young leaders in Rio’s favelas have shifted to using the term *favelado* (favela resident) as a point of pride that underscores their resistance and resilience, and strengthens a shared identity around these core attributes.



Providencia, the first favela, in the early 1900s. Credit: Augusto Malta, General Archive of the City of Rio de Janeiro

With the impending mass titling of favelas across Brazil, a Favela-Community Land Trust (F-CLT) model could provide a better solution. Traditional CLTs are set up as nonprofits, which own and maintain the land. Residents own their respective buildings and, in effect, co-own the associated land, guiding and governing the nonprofit landowner as members of the CLT. Since land is normally the primary cost in urban housing, the CLT keeps home prices affordable. In keeping with Law 13,465, the CLT model transfers public land to private ownership, but the collective ownership of land inherent to the CLT model is more in keeping with the constitution’s provision that land serve a social function. Implementing such a model could offer a beacon of hope for housing activists working to regularize informal urban settlements in an increasingly expensive urban world—a model for providing secure access to land and preserving the affordability of housing in perpetuity.

In the context of informal settlements, the CLT approach recognizes—and even welcomes and builds on—the inherent complexity and dynamism of these neighborhoods without compromising their existing characteristics.

## Shelter is a Basic Need

Arguably, the biggest urban issue of our time is what to do with our informal settlements.

The fastest-growing cities in the world are in developing countries, mainly in Africa and Asia. Due to this rapid, unplanned growth, somewhere between a quarter and a third of people in cities today live in informal settlements, unfortunately and unhelpfully still referred to as slums or shanties by news reporters and international organizations.

By 2050, nearly one-third of *all* humanity is projected to live in informal settlements, as population growth is greatest in urbanizing developing countries, where governments can’t address the needs of new urban migrants.

According to researcher Justin McGuirk, “85 percent of all housing worldwide is built ‘illegally,’ . . . mak[ing] residents of informal settlements the primary developers of urban space worldwide, dictating the design and use of more square miles than architects and governments.” And yet, broadly speaking, societies pay little attention to them, until and unless those settlements are seen as “getting in the way” of

“Traditional CLTs are set up as nonprofits, which own and maintain the land. Residents own their respective buildings and, in effect, co-own the associated land, guiding and governing the nonprofit landowner as members of the CLT.”

real estate development. Conflicts around gentrification and development worldwide are a direct consequence of policies that treat housing as property and an investment rather than recognizing shelter as a fundamental human need.

The status quo is to dismiss such communities or evict residents, at best pushing them into inhumane public housing. These approaches are unsustainable and socially unjust. They have not worked because they do not address the underlying reasons why such settlements exist and often leave residents worse off.

At the very least, 20 percent of the population of a typical city cannot afford market-rate housing and thus must access housing outside this market, either through government or civil society.

It is therefore no surprise or coincidence that Rio de Janeiro—a city that, since it urbanized in the late 1800s, has not seriously addressed the need for shelter—today houses 24 percent of its population in informal settlements.

## Rethinking Rio’s Favelas

Rio’s favelas boast a rich 120-year history and may be some of the most consolidated informal settlements in the world today because during much of that history they have been left to their own devices and have put down roots. Consolidated favelas are those where, due to community investment over time, residents generally see value in staying and making improvements in their dwellings, which often represent the life savings of several generations.

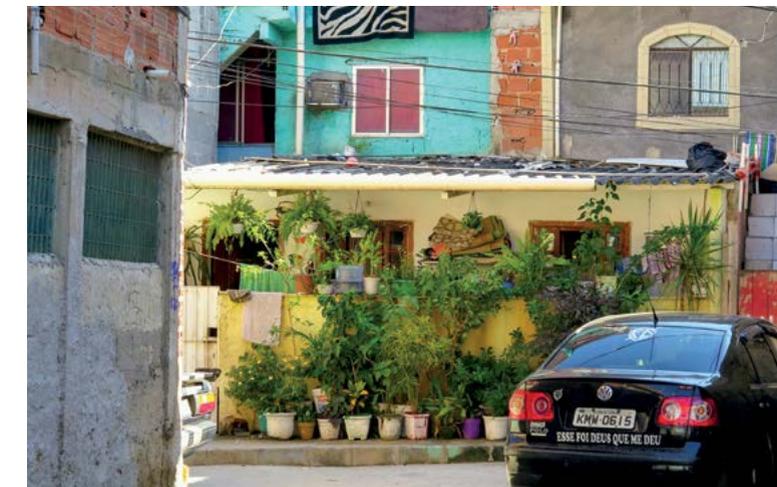
Rio was the largest slave port in world history. Slaves constituted 20 to 50 percent of the city’s population during the 19th century before Brazil, in 1888, became the last nation in the western hemisphere to abolish slavery. Generations of post-abolition politicians have been intent on preserving the status quo of

severe inequality, maintaining an accessible servant class while not recognizing the need to provide services to those same people. Favelas are the territorial manifestation of this neglect. By failing to provide favelas with quality public services, including sufficient educational opportunities, and by criminalizing poverty, the city’s power structure renders the status of these communities sufficiently ambiguous and tenuous to keep them submissive. Consequently, this history has been punctuated by periodic forced evictions and occasional investments in infrastructure improvements and basic services.

## CONDITIONS

Rio de Janeiro has approximately 1,000 favelas, ranging in size from tens to 200,000 people. Most favela residents live in communities that are over 50 years old and receive low-quality basic public services. The majority of investment has been made in private homes where residents exert the greatest control and have rebuilt repeatedly over generations. Illegal construction is widespread in Brazil, whether posh villas in national parks,

A carefully cared-for home in the Asa Branca favela, West Zone. Credit: Catalytic Communities | RioOnWatch



A small home perched precariously atop the gentrifying Vidigal community. Credit: Catalytic Communities | RioOnWatch



unauthorized ranches in the Amazon, or houses in the favelas. While they do not own the land, somewhere between two thirds and all of favela residents own their homes. Today, over 90 percent of those homes are made of brick, concrete, and reinforced steel.

Neither temporary nor precarious like slums and shanties, Rio's favelas can be defined by four conditions. They are neighborhoods that develop out of an unmet need for housing. They receive no significant outside regulation. They are established by residents, not by outside developers or speculators. And they evolve, highly influenced by many factors including culture, access to jobs, and the availability of resources.

Rio's favelas exhibit a huge variety of conditions that have resulted in an equal number of outcomes, ranging from highly innovative to entirely dysfunctional. Decisions about the future of these communities are therefore best made by residents, who are the only people capable of evaluating the true value of their settlements, which is often noneconomic and thus hard to quantify.

Nonetheless, the data capture some of the strengths of this type of community. In *A Country Called Favela*, researchers relate that between

2004 and 2014, when Brazil was experiencing rapid economic growth, the average wage in favelas grew more than the average wage across society. Favela residents considered themselves happier than the national average (94 percent versus 93 percent). And 81 percent liked favelas, 66 percent wouldn't leave their community, and 62 percent were proud to live there.

None of this is to deny the very real challenges facing favelas; it is simply to question the narrow view that informal settlements are bad and that by consequence they should be removed. Removing consolidated favelas only compounds the policy failures that make favelas inevitable. In addition, it is important to note that there is nothing inherent in favelas that produces criminal activity. A combination of other factors produces circumstances conducive to organized crime. These factors are the criminalization and stigmatization of poverty; public-sector neglect of education, infrastructure, and other amenities; and lack of economic opportunity.

As a result of this panorama of good and bad, and despite oftentimes paralyzing stigma, lack of investment, and counterproductive security policies, average favela residents would rather see their community improve than seek alternative housing.

### OCCUPATION RIGHTS 1988–2010

When Brazil re-democratized following the military dictatorship of 1964 to 1985 and passed its "People's Constitution" in 1988, housing movements successfully demanded the inclusion of adverse possession rights, opening a legal path to property ownership for residents of informal settlements. Adverse possession, commonly known as "squatter's rights," refers to housing rights given to occupants of land or housing if they are not convicted of trespassing during a given period. In some cities in the United States, such as in New York, that period is ten years. Brazil's five-year urban eligibility period is brief by global standards, and rightly so, given the urgent need to legalize homes built in favelas before the constitution was signed.

In 2001, Brazil passed its Cities Statute, which included a provision for favelas and other Zones of Special Social Interest (Zonas de Especial Interesse Social, or ZEIS) to be preserved as affordable housing. This built on a collective awareness among Brazil's architecture and engineering establishments that this was the best course of action on favelas. Yet, squatter's rights and ZEIS, like many progressive policies in Brazil, fall into the category of policies *pra inglês ver*, or "for the English to see." This dates back to the slave trade and the practice of establishing laws and policies intended not for implementation, but for the benefit of outsiders or domestic advocates of the policy.

Thus, very rarely have favela residents in Rio de Janeiro been given titles. In cases where they squatted on private land and can prove uninterrupted occupation, it may be relatively straightforward to obtain titles through the courts. But the majority of favela housing is on public land, where authorities could ignore title requests. Legally, public officials in Brazil could be expected to provide leaseholds or possession rights, as opposed to titles, since public land was considered nontransferable, while squatters' rights were constitutionally recognized. However, very few leaseholds have been issued, despite the provisions of the law.

Figure 1  
Sustainable Urban Aspects of Favelas

Favelas in Rio have organically developed the following urbanistic attributes commonly associated with sustainable communities:



#### HOUSING

- affordable housing in central areas
- housing near work
- low-rise, high-density, and highly sociable neighborhoods
- flexible use-based architecture;



#### COMMUNITY

- high degrees of collective action
- cultural incubation
- high rate of entrepreneurship; and



#### TRANSIT

- mixed-use; pedestrian-centered streetscape
- high use of bicycles and transit.

## TENURE 2010 TO TODAY

The official approach toward informal settlements shifted in the buildup to Rio's hosting of the 2014 World Cup and 2016 Olympics. Beginning in 2010, when investment flooded the city in advance of these global events, titling became a hot issue. Titles were announced primarily for South Zone favelas, such as Rocinha, Vidigal, and Morro Dona Marta, which were often the most consolidated communities and certainly those in the wealthiest and most speculative districts. It was a matter of months before some residents of these communities—which had successfully fought off eviction during the nation's military regime in the 1970s—connected public authorities' sudden interest in titling with those prior struggles. Using the term *remoção branca*, or “white eviction” (favela residents' initial, endemic term for gentrification), to reflect the unfolding phenomenon,

community organizers lamented the arrival of titles, just as real estate speculators were descending on Rio during the biggest boom in the city's history. And they didn't see it as a coincidence.

In 2013, the media were abuzz with news of gentrification in Vidigal, a favela situated above Ipanema Beach, on what may be the most valuable land in Brazil. Fancy hotels and bars were opening, as were bed and breakfasts and sushi shops. At one point, the residents' association estimated that some 1,000 foreigners were living in the community of roughly 20,000.

Nearby, in the Babilônia favela, at a community meeting to discuss the threat of gentrification, Residents' Association President André Constantine declared, “Because we were born here, we have the right to raise our kids here, and to watch our grandchildren grow up here! . . . How do we see this situation? This [granting of

A typical weekday afternoon in Asa Branca favela. Credit: Catalytic Communities | RioOnWatch



One of four public open-air debates on gentrification and the risks it poses in Vidigal, held by the residents' association and a coalition of other neighborhood groups in 2014. Credit: Catalytic Communities | RioOnWatch



Babilônia resident addresses municipal official declaring “We don't want any title!” Credit: Catalytic Communities | RioOnWatch

titles and utility privatization] is a project [by the government] to keep us from remaining here. . . . They're not going to change the characteristics of the place [through improvements]. No, first they're going to sanitize poverty . . . [by] expelling those who built the place.”

Informal settlements often function as a city's affordable housing stock. When they are individually titled, especially if they are well situated, those homes take on the full land value associated with their location. As a result, they cease to be affordable. The bottom 20 percent of the economic pyramid is forced out. This is a severe blow to people who have built a community over generations; who have grown to depend on its social fabric, location, and safety net; and who have been perpetually underinvested and excluded from the city despite having built it. It also undermines efforts to reduce Rio's epic inequality and maintain the city's cultural riches.

Not surprisingly, by spring 2018, Babilônia's leaders have made little progress in discussions with the city over land titles. They, along with Vidigal and other favelas, did, in a sense, benefit from the recent economic downturn, which halted rent increases and the threat of *remoção branca*. At the same time, gang and police violence increased, leading long-term residents to leave. The pressures on community health in favelas come in diverse forms during booms and busts, and the current military intervention in Rio poses the latest challenge.

## Do Favela Community Land Trusts (F-CLTs) Offer an Opportunity?

For most of the past decade, I have explored the potential for implementing a community land trust model in Rio's favelas. Witnessing the impacts of the pre-Olympics “boom” market on favelas in the South Zone, where relatively few residents benefited while many found themselves struggling, our organization supported diverse groups in Vidigal through gentrification awareness workshops and a debate series on real estate speculation in the community. The first debate in 2014 was packed with residents sharing their stories and concerns. Some had been forced out of their homes by utility hikes or rent spikes; in other cases, sellers underestimated the value of their homes and ended up moving to significantly worse circumstances; and then there were the young adults who, for the first time in generations, would not be able to purchase a home in their family's traditional community.

We began to inform favela organizers about land stewardship strategies, including the community land trust. CLTs are well suited to both periods of economic decline and speculative growth. Although formalized, the basic logic of CLT governance is not much different from favela governance today. Residents own and sell their homes at affordable prices through an

active parallel affordable housing market. Meanwhile, they do not own the land on which they live, which is, in a sense, owned collectively because it is publicly owned. Finally, residents' associations and other neighborhood institutions engage in and advocate for infrastructure improvements in the community, and maintain records of home sales.

The major difference between the two is that favelas are kept precarious through tenuous governance by the authorities, whereas CLTs are sanctioned to manage land, represent the community, and take action to improve that land, and their mandate is unequivocally recognized by residents and authorities.

North American visitors check out the views of South Zone tourist attractions like Sugarloaf Mountain from atop a home in Vidigal. Credit: Catalytic Communities | RioOnWatch



But the concept, as practiced traditionally in the United States and Europe, didn't precisely match the reality in the favelas. CLTs are associated with their American and European varieties, where they function as real estate developers—nonprofit and affordable, but developers nonetheless. Favelas, however, do not require property development, but rather a formalization of their existing housing and community stock. This begs the question: can favelas be retrofitted as CLTs?

It turns out that the answer is a resounding yes. Starting in 2001, the Caño Martín informal settlements of San Juan, Puerto Rico, fought the gentrification of their communities. Today, the Caño is a widely studied example and shows that CLTs can effectively provide formal, titled ownership without the risk of gentrification, while building on the community's existing social attributes. (See page 19.)

## CLT PIONEERS: PUERTO RICO'S HISTORIC CAÑO MARTÍN PEÑA COMMUNITY LAND TRUST AND BOSTON'S DUDLEY STREET NEIGHBORHOOD INITIATIVE

In Puerto Rico, the Caño Martín Peña communities adapted the community land trust (CLT) model to support existing informal settlements. The eight Martín Peña communities' struggles were reminiscent of the experience in many Rio favelas and similar communities around the world. In the 1930s, a devastating hurricane forced rural workers to migrate to San Juan. They eventually built 5,000 homes informally along the Martín Peña Canal, an important artery through the capital. Today, 26,000 residents occupy the area, which is the most densely populated community in Puerto Rico.

Lack of proper sewerage and canal maintenance left the historically underserved area extremely prone to flooding. In 2001, the US Army Corps of Engineers committed to dredging the canal, but residents told city officials they were deeply concerned that improvements to the canal would lead to the gentrification of their neighborhood, given its proximity to the heart of San Juan.

Recognizing this legitimate concern, city officials held 700 community meetings between 2002 and 2004 to explore ways to preserve affordable housing and formalize landholdings. Eventually, they decided a CLT model was the best way forward, but there was no legal precedent for it in Puerto Rico.

In September 2004, San Juan passed Law 489/2004, creating the Martín Peña Canal Special Planning District and ENLACE, a special public corporation, to manage the dredging and other infrastructure improvements. The law also provided for the future incorporation of the CLT.

Also in 2004, residents established the Group of Eight Communities, or G-8, a nonprofit to promote economic, social, and community development and to maintain the CLT. The G-8 facilitates communication between ENLACE and the CLT and ensures compliance with the project's Comprehensive Development Plan.

Prior to transferring title to the CLT, ENLACE worked to regularize property rights. Residents were granted surface right deeds with the right to inherit and maintain ownership of their home, while ENLACE retained title to the land beneath. This separation insulates residents from rising real estate values—they can capitalize on the rising values of the home itself, but not the land underneath.

The General Regulations were enacted on October 21, 2008. They stress the CLT's role as a "mechanism of collective possession in order to solve the problem of the lack of ownership titles" and to "avoid involuntary displacement" of canal residents.

The CLT has now been operating successfully under the General Regulations for 10 years. In partnership with ENLACE, it has made significant progress toward self-maintenance and has relocated residents humanely and only when necessary to dredge the canal. In 2015, it won a Building and Social Housing Foundation World Habitat Award recognizing it as a model for other informal communities.

The Caño Martín Peña case is helping inspire initiatives around the world, including those in Rio de Janeiro. Much of the San Juan model can be inspiring, including the stories of why people chose the CLT over individual full titles and how they organized the community to decide the best model for itself, crafted legislation, and ultimately succeeded in developing the community affordably. The example also demonstrates that when households are a part of an F-CLT, they continue building on the collective assets of the community, rather than lapsing into the more self-interested thinking associated with full individual titles. When Hurricane Maria hit Puerto Rico, the Caño was globally linked and within months was able to galvanize supporters including other CLTs around the world to raise hundreds of thousands of dollars to aid their rebuilding efforts. The Caño Martín Peña case demonstrates that collective development allows communities to harness more resources in inevitable times of need—even amid the effects of climate change.

And beyond the Caño, CLTs' experiences all over the world can offer lessons. The Dudley Street Neighborhood Initiative in Boston, which in 1989 created the Dudley Neighbors Inc., CLT, teaches us that these institutions' contributions go far beyond land management. They can be economic engines coordinated by collective community priorities. This could be very inspiring to favelas that have developed their own commercial activity or that would like to but have had to do so informally. They now can, through the CLT, develop this formally, but in a way that curtails the expenses associated with formalization through traditional channels.

Table 1  
Community Land Trusts and Favelas: Similar DNA

Looking across cases in the North and global South, the core components of the CLT model can be summarized, as:	Favelas are already, in essence, informal CLTs, in which:
<p><b>Voluntary Membership.</b> Participants in the CLT must choose to belong and commit to maintaining permanent affordability;</p>	<ul style="list-style-type: none"> <li>• <b>Residents choose to live there</b>—often forced by circumstances initially but eventually because they develop a sense of belonging and invest in their community;</li> </ul>
<p><b>Collective Land Ownership.</b> The CLT owns the land on which it operates and is composed of resident-community members;</p>	<ul style="list-style-type: none"> <li>• <b>Land is owned by the government</b> for “social benefit;”</li> </ul>
<p><b>Individually Owned Homes.</b> Residents own the home in which they live and can invest in and sell that home. The home’s value is kept more affordable than elsewhere by removing the land value from the sale price (given that the land belongs to the CLT). In some cases, the home must be sold or first offered to the CLT, which resells it to those with sufficiently low income to meet eligibility criteria. Alternatively, the permitted price of resale is legislated during the creation of the CLT;</p>	<ul style="list-style-type: none"> <li>• <b>Structures, mainly homes, are primarily owned by their residents</b> (65–100%) with very robust parallel informal real estate markets and, in some favelas, agencies;</li> </ul>
<p><b>Community Control.</b> The CLT Board is elected by CLT residents only and empowered to conduct broad community development and manage housing. Typically the board has a tripartite structure that ensures the permanent nature of its mission: often a third of the members live in housing on the CLT’s land, a third reside in the neighborhood served by the CLT, and a third serve as technical advisors; and</p>	<ul style="list-style-type: none"> <li>• <b>Every community is required to have a residents’ association, which is usually elected by residents and is legally responsible for representing the community</b> in meetings with public officials, often also undertaking local improvements. They are also the primary agencies responsible for documenting home sales and land disputes; and</li> </ul>
<p><b>Permanent Affordability.</b> The overarching goal of the CLT is to guarantee permanently affordable housing.</p>	<ul style="list-style-type: none"> <li>• <b>Affordability has been maintained</b>, even on what today would otherwise be incredibly expensive land, by virtue of government ownership of land and historical neglect of favelas, where residents were marginalized and criminalized.</li> </ul>

A CLT form of ownership in the favelas would provide residents with security from eviction and real estate speculation. It would also provide public, legal recognition, along with a greater likelihood of improved infrastructure and services. Establishing the legal and institutional frameworks necessary to manage the F-CLT is a daunting task.

US and European CLTs require new residents to accept the ownership model and community organization as they enter the CLT’s waiting list for housing. F-CLTs would need to inform existing residents of their options (F-CLT and house titles versus individually held full land title) and allow families to opt in or out. Fortunately, the Caño in Puerto Rico offers a successful model: 2,000 of approximately 6,500 families opted for inclusion in the CLT in the eight participating communities. If a pilot project in Rio yielded only a subset of homes committed to the F-CLT, one can nonetheless assume that a mix of CLT and full-titled households would curtail major speculation, because large developers would be uninterested in smaller plots surrounded by affordable housing.

If so legislated, households that opt into the F-CLT would be entitled to pay a lower property tax, which is appropriate given they are forgoing their right to speculate in order to guarantee permanently affordable housing (i.e., a public good). They also could benefit from other affordability guarantees such as subsidized utilities (which, similar to shelter, address basic needs) with the same justification. Ensuring a permanently affordable housing stock via F-CLTs would be a boon to the public sector, which would be meeting its obligation to guarantee shelter without massive expenditures in public housing and rent subsidies. Cities could consider lower property taxes for F-CLTs as a flip side of the coin that often causes them to tax vacant land at higher rates, leading to greater inequality and inefficiency. A community-managed permanent affordable housing market would instead lead to greater equality and efficiency for the city as a whole.



Residents take advantage of an empty rooftop to fly kites in Vidigal. Credit: Catalytic Communities | RioOnWatch

There are three main reasons a household might choose to participate in a F-CLT rather than seek individual title to the land:

- 1. Permanence.** The residents’ main concern is being able to stay in their homes and maintain their community, rather than being able to sell their homes at full market price.
- 2. Affordability.** They require subsidies because they cannot afford full property tax, utilities, and other market-rate costs of living associated with the “formal city,” such as businesses likely to operate in a speculative setting.
- 3. Community Management.** They prefer their community to manage its own development rather than relying on government agencies, which are often absent or ineffective.

Embracing F-CLTs could be deeply transformative. Communities would ensure their tenure security through cycles of economic growth and decline, amid gentrification and eviction. They would also build on the legacies of resilience and resistance in favelas, preserving the unique characteristics of individual neighborhoods and their residents. They would use their collective, formal status to lobby for cultural recognition, subsidized utilities, and other amenities, and material improvements.

## What Now for Rio?

Brazil is at a crossroads. The federal government is actively promoting mass full-titling of land and structures under regularization law 13,465. However, communities are increasingly concerned about the resulting speculative pressures, and this law must coexist with the now-established norm of recognizing favelas as Zones of Special Social Interest that should be upgraded and preserved as affordable neighborhoods.

In this context, F-CLTs represent a middle ground where the best of these two laws can coexist. The national regularization law could be complemented by an opt-in F-CLT law. Such a law could establish the framework for individual community members to choose between two options. They could choose the individual full titles currently established in the law, which will allow owners to sell their homes at market value but require them to pay full property taxes and utility bills. This option would also drive a significant cultural shift away from collective management of favelas. Or, they could choose a favela community land trust framework, whereby residents who opted in would receive titles to their structures while forming a local institution recognized by the state and run by the community to manage the land and overall neighborhood.

Residents who opted into the first scenario would depend on the public sector for all zoning decisions, upgrades, and maintenance of their public spaces, as is typical for the formal city at large. Residents who opt into the second scenario would be able to request that public resources, which would otherwise have been spent on them by the government, be allocated to the F-CLT to undertake community improvements. This second option would be legislated to guarantee permanence, affordability, and community management. The result of such a law would guarantee a large network of permanently affordable housing nationwide, offering a market through which low-income wage earners could transition as jobs and other opportunities shift locations.

In the absence of a F-CLT law, however, groups within communities could still act to establish an affordable framework. As federal law 13,465 goes into effect, a group within a community may self-select to form a F-CLT with their newly granted titles. Even if only a quarter of the community forms a F-CLT, the fact they have done so will limit the speculative potential of their community's real estate permanently, because there will not be large tracts of land available for speculation.

Both of these scenarios are currently being investigated and developed by a coalition of partners including our Rio-based NGO Catalytic Communities, the Caño Martín Peña CLT, Rio de Janeiro's Laboratory for Studies of Transformations in Brazilian Urban Law (LEDUB), and the Center for CLT Innovation of the Global Land Alliance, with support from the Lincoln Institute of Land Policy.

The group is creating a series of tools and materials for favela organizers to assess the value of a CLT model to their community, developing a legislative understanding of how this is possible under current law, and envisioning what a new CLT-promoting legislation might look like. All of this will be discussed in workshops with favela community leaders, housing organizers, legal advocates, technical advisors to favelas, and researchers in Rio this August. Communities interested in mobilizing for a F-CLT in their community will receive ongoing technical support from this broader network.

It is clear that ultimately, a successful F-CLT scenario will depend on heavy investments in existing community organizing efforts, to inform residents about the risks and opportunities they face under diverse titling schemes, help them settle on the F-CLT as their solution of choice, and support what will inevitably be a long-term, permanent effort to develop and manage the CLT. The F-CLT will need to thoroughly document community assets in order to ensure that their approach builds on those assets rather than undermining them. As has always been the case, the future of Rio's informal settlements continues to lie in their residents' own hands. □

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