

Informal Work And The Right To Decent Housing

D. Rodriguez Perdomo^a, L. C. Gallego^{b*}, O.E. Castro^a and Araque . O^c

^aFaculty of Law, Universidad Cooperativa de Colombia, Sede Ibagué—Espinal, Ibagué 730001, Colombia.
Work and Society Group, Univesidad Cooperativa de Colombia, sede Ibagué-Espinal, Ibagué 730000, Colombia.

^bPlanaudi Research Group, Universidad Cooperativa de Colombia, Sede Ibagué—Espinal, Ibagué 730001, Colombia.

^cFaculty of Engineering, Universidad de Ibagué, 730001, Colombia.

D. Rodriguez Perdomo. Corresponding author:

dario.rodriquezp@campusucc.edu.co

O.E. Castro. Corresponding author:

omar.castro@campusucc.edu.co

L. C. Gallego *corresponding author:

laura.gallego@campusucc.edu.co

Araque. Oscar corresponding author:

Oscar.araque@unibague.edu.co

Abstract

The development of the article aims to advance a socio-legal analysis of how informality in the workplace has a major impact on the non-fulfilment of the right to housing in decent and adequate conditions for the population of the Municipality of Ibagué - Colombia. Informal work, as is well known, is an important factor in the economy and in the development of Ibagué society, especially in a city like Ibagué, which has high rates of unemployment in Colombia as well as a high number of people working in the informal sector. The main conclusions are the need to strengthen the legal system in order to satisfy the right to housing as established in the Constitution and those parameters and guidelines suggested by international organisations that should be taken into account in the design of public policy, as well as the need to avoid discrimination and promote equality in order to facilitate access to decent housing.

Keywords: housing choice; decent housing; Colombia; housing policy; informal work.

Introduction

The issue of adequate housing has been a generalised problem throughout the history of Colombia, a problem that has been overcome in certain aspects such as: access to housing through housing projects generated by the Colombian State, the intervention of banking entities in the financing of housing, the creation of entities such as the Housing Promotion Fund, the

National Institute for Social Housing and Urban Reform (Instituto Nacional de Vivienda de Interés Social y Reforma Urbana) INURBE, among others, institutions that in some way formed part of programmes promoted by the governments of the time aimed at satisfying the right to housing, a right established at the Constitutional level.

In recent decades, there has been a greater concern on the part of the different governments to achieve greater coverage in the provision of housing, especially for the least favoured sectors, which is how different programmes such as social housing (SH) and priority housing (PH) have been created and established, programmes that in one way or another have managed to reduce the high rates of housing deficit. However, they lack a collective housing perspective, specifically the aspect of adequate housing, a determining and fundamental factor to take into account in the issue of housing, since, as has been established, housing is a right of relevant importance in people's life projects.

Globalisation in the economy generates great changes in different sectors and logically the social legal field is not exempt from these changes (von Benda-Beckmann, 2002), this process of globalisation has had great repercussions in the labour field, especially in the conditions and rights of workers; it is in this sense in which new aspects are observed that according to Espinoza are predispositions such as: The high rates of unemployment, a flexibilisation not only in the timetables but also in the forms of contracting, the lack of regulation and protection in the new forms of work, leading in a great way to a growth in labour informality, but above all these aspects there is undoubtedly one that greatly affects the subject under analysis and that is the decrease in income for workers. This leads to the impossibility of obtaining adequate housing, resulting in this population having to live in marginal housing and areas where there is not even a minimum guarantee of household services, among others, without leaving aside the lack of management by the state to fulfil the state's aims, with respect to the efficient and effective management of resources (Espinoza, 2003).

In this way, it is pertinent to mention the intervention of the International Labour Organisation (ILO) in these aspects, which, taking into account current labour trends, has proposed since 1999 the Decent Work Agenda (DWA), which is defined as "Productive work in conditions of freedom, equity, security and dignity, in which rights are protected and which has adequate remuneration and social protection" (Somavia Juan, 1999, p. 4).

Since its inception in 1919, this organisation has not only been concerned with, but has designed and established policies aimed at achieving social justice and prosperity for the people in terms of the livelihood of workers and their families, as well as in the field of labour.

Hence the importance of answering the following question: What is the incidence of informal work and inadequate

housing in marginal areas in the population of the municipality of Ibagué - Colombia?

In order to answer this question, a socio-legal methodology is used with a propositional explanatory approach, through a hermeneutic process, which allows the analysis and explanation of a real situation such as the need to eradicate informality in housing as a constitutional right for the population of Ibagué who work in the informal sector.

Initially, the legal framework in Colombia is reviewed, how the right to housing is established in the Political Constitution, laws and decrees, as well as an analysis of the right to decent housing based on the guidelines established by the Committee on Economic, Social and Cultural Rights as an essential factor in the granting of the right to housing in a comprehensive manner. This will be followed by an analysis of informal work in the city of Ibagué, with the aim of grounding these concepts and relating them to the informality of housing as a reality felt by the population that works informally; In order to reach conclusions that show the incidence of informal work in informal areas and housing of this population in the city of Ibagué, with the aim of making some proposals to mitigate this problem.

Several studies have been conducted on the issue of housing in Colombia (Zapata, 2018; Lizarralde, 2011; Cubillos-González & Tiberio Cardoso, 2020), mostly studies that address the issue from a legal, economic, political and social perspective, but there is little research on the right to housing from the perspective of the right to adequate housing and its affordability for disadvantaged people or people who work in the informal sector, aspects of a constitutional and jurisprudential nature and with clear guidelines from international organisations (right to decent work and right to decent housing (Political Constitution of Colombia, 2009).

The right to decent housing is a right whose satisfaction is the responsibility of the State (Thiele, 2002), and the governments of the time have been largely concerned with generating housing projects that help to reduce the high rates of homeless households, and in this way have been promoting programmes to generate housing of social interest or priority interest, with the aim of offering a roof over the heads of Colombian families. However, there has been little concern on the part of the Colombian state to offer housing in decent and adequate conditions, that is to say, to consider aspects such as space, sanitation, infrastructure, public utilities, especially the aspect of affordability for those people who are engaged in informal work, who are generally the people with the lowest and most unstable incomes (McKay, 2018); It is therefore important to carry out research that shows the need to analyse two issues that are fundamental for people when it comes to improving their quality of life, such as informal work and its impact on informal areas and dwellings in the municipality of Ibagué.

As has already been mentioned, the concern of the

governments in power has focused on generating housing projects in order to reduce housing deficit indices, i.e. by mere quantitative aspects, leaving aside the qualitative aspect, which includes everything related to decent housing standards (Bierre, Bennett & Howden-Chapman, 2014), but also under no circumstances has it been concerned with generating strategies or a public policy aimed at the affordability of formal and adequate housing for those people engaged in informal work, who do not have a stable income or any kind of guarantees that would allow them to access aid or subsidies provided by the government through either banks or compensation funds.

According to the National Administrative Department of Statistics (DANE) in its March 2020 report, the informality rate in Ibagué stood at 54.2%, although the figures show a significant drop of 0.3 basis points, the number of people who were employed both formally and informally did decrease by a significant 17,000.

The (DANE) carried out the presentation of the report measuring informal employment and social security in Colombia, with regard to the quarter November 2019 to January 2020, in this report the city of Ibagué recorded some worrying figures as it presented a 54.2%, if compared with the same period recorded in 2018, it can be said that the rate contracted by 0.3%. 2%, if compared to the same period recorded in 2018, it can be stated that the rate contracted by 0.3%, but in relation to the last eleven reports presented by the Entity undoubtedly the latter is the highest figure presented in the musical city, surpassing even the national average rate, which is at 7.6%.

These figures have a great impact on the subject of this research, as they have a great impact on aspects such as the unemployment rate, which is once again above 18%, the decrease in formal jobs to 7,000, problems such as these are the ones that generate the proliferation of families who resort to creating areas and housing in the informal sector, hence there is a direct relationship between informal employment and informal housing. From an inclusive perspective and in accordance with the stipulations of international organisations in favour of human rights and their protection, the right to decent and adequate housing encompasses a whole range of rights, as it is a right that enshrines a whole situation in the life projection of citizens, of human beings (Leijten & de Bel, 2020); The Colombian legal system should not and cannot be oblivious to these circumstances and therefore justifies having a critical view of the norms and guidelines in Colombia that enshrine the right under study, although the right to housing is considered a structural or progressive right, the State is obliged to formulate policies and strategies to provide the entire population with access to decent and adequate formal housing.

Enshrining the right to housing in the 1991 political constitution and those established in international

treaties.

The 1991 Colombian Constitution enshrines the right to housing as an economic, social and cultural right, that is, a second generation right. Article 51 protects the right to adequate housing in the following terms: "All Colombians have the right to decent housing. The State shall establish the necessary conditions to make this right effective and shall promote social housing plans, adequate long-term financing systems and associative forms of implementation of these housing programmes". (Constitución política, 2009, p.44)

Similarly, Article 64, referring to the obligations of the State, determines that it must promote a series of benefits for the peasant population, and also refers to the right to housing in the following terms: "It is the duty of the State to promote progressive access to land ownership for agrarian workers, individually or associatively, and to education, health, housing, social security, recreation, credit, communications, marketing of products, technical and business assistance, in order to improve the income and quality of life of peasants" (Political Constitution, 2009, p.51). (Political Constitution, 2009, p.51).

The enshrinement of these articles in the Magna Carta ensures, in some way, the protection and validity of this right and without a doubt a great success on the part of the Constituent Assembly in establishing a coherence between the internal legal system and international norms regarding the protection of this right. However, it is clear and evident that the perspective with which this problem has been seen is not correct, as they have been more concerned with the housing deficit indices than with a perspective of decent and adequate housing and less with a review of informal housing settlements (Rodriguez, 2015).

In this sense, the subject under study has become a central issue of concern from a political, social and legal point of view, for which the different governments in office have established programmes aimed at satisfying the right to decent and adequate housing, but when evaluating the programmes and reviewing the figures on the subject, it is evident that the Colombian State has either not complied with what has been agreed or has done so in the wrong way, since the results shown are not consistent with the provisions of the international treaties ratified by the State. It is evident that the Colombian State has either not complied with what has been agreed or has done so in the wrong way, since the results shown are not coherent with the provisions of the international treaties ratified by the Colombian State that deal with human rights, which reflect an initiative for the protection and protection of this right (Zeiderman, 2013).

On repeated occasions, international organisations have made pronouncements on the issue of housing and have determined that the term housing should not be confused with the simple term of refuge or shelter from threatening factors such as the weather, animals or common delinquency; on the contrary,

decent and adequate housing should be understood as a whole life project, through which one can improve or have access to the quality of other rights such as health, education, recreation, etc. (Ibem, Aduwo & Ayo- Vaughan, 2015).

It is understood then that the State must first guarantee the right to housing, but not only, as stated above, a simple shelter, but one that complies with design and construction parameters, both structural and architectural, as well as minimum standards that are in keeping with human dignity (Universal Declaration of Human Rights, 1948), Human beings have reached and consolidated mechanisms and policies for the protection, protection and enforcement of Economic, Social and Cultural Rights, one of these provisions is the one established in the Declaration of Human Rights, in its paragraph 1 of article 25, which states: Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. (Universal Declaration of Human Rights, p.32).

As a result of these declarations, it is clear that they must be taken into account as essential foundations by the Member States when establishing public programmes and policies aimed at satisfying basic and fundamental needs, through which a commitment is made to achieve the development of these proposals with an emphasis on needs as relevant to human beings as housing. This term, housing, should not be seen in isolation, as it is closely related to the concept of a dignified life.

It should be noted that as a result of the armed conflict that Colombia has experienced for decades, the Colombian population has been forced to resort to situations that have affected the internal order, including forced displacement, which is very recurrent (Carneiro, 2021), thus exposing the failures and lack of mechanisms for the protection of human rights, i.e., there is a greater difficulty and of greater magnitude than in other States in the region.

On the other hand, there are also elements, concepts and definitions of doctrinal origin, which in some way, although not binding on the member states, are important to consider in the sense that they can be applied as a source of guidance for the guidelines established by the United Nations Committee on Economic, Social and Cultural Rights.

The objective of what is established there is that the member states have a reference of experience, which has been generated by the results of the reviews of the reports presented by other member countries, and in this way facilitate the application of what has been agreed, in addition to proposing possible improvements and motivating the execution of projects for the evaluation of their policies, which make it possible to demonstrate

the failures and problems that arise, and in this way take measures that allow the implementation of new elements and achieve an effective and efficient protection of the rights that are the object of study.

One of these references and of great importance is what is established in General Comment No. 4 of the Committee on Economic, Social and Cultural Rights (1991), which refers to the dimension contained in the right and in one way or another interprets the obligation of the Member State in its execution, in the same way it relates a total of seven components of the right to housing, on these components is based the structure of analysis of the right and in turn becomes those demands with which the State must comply, when designing and establishing policies that satisfy the right to decent housing. The above is widely accepted and developed by the Constitutional Court in relation to the right to decent housing, hence its importance for this research.

Standards, initiatives and recommendations for the right to social security, decent work and poverty reduction.

One of the major concerns of the International Labour Organisation (I.L.O.) since its foundation in 1919 has been social protection and the right to social security. T) since its foundation in 1919 has been that of social protection and the right to social security. This work has been carried out through norms, recommendations and initiatives that in some way help member countries to achieve greater coverage, but above all to establish effective and efficient social protection systems, based on international standards, in such a way that these are integrated into domestic legal systems through the Constitutional Block or that these States establish laws that are in accordance with these international standards (Schmitt, Lierse, Obinger & Seelkopf, 2015).

In 2012, the I.L.O. established a norm called social protection floors, which refer to a whole set of basic guarantees regarding social security, defined at the national level, aimed at preventing or alleviating to a certain degree the indices of poverty, vulnerability and social exclusion, with the minimum objective of ensuring that all people during their life cycle have access to health care and the insurability of a basic income (Cichon, 2013). Another of the I.L.O.'s initiatives is reflected in the 2030 Agenda for Sustainable Development. is reflected in the 2030 Agenda for Sustainable Development, which invites member states to design and establish domestic policies and strategies that promote social protection measures for all, in order to reduce poverty, national health coverage, gender equality, decent work, economic growth and greater equality (Wheeler, 2022); Undoubtedly, it is precisely in this agenda where we find the most input for the object of study of this research, since within these objectives we find the norms and policies of decent work, poverty reduction and social protection for all, fundamental issues in the incidence of informal

work, affordability of housing and the eradication of informal areas and housing.

The transition of workers from the informal to the formal economy.

In the world, a large part of the workforce is employed in the informal economy, which means that this population does not have a decent and clear job (Chen, 2012), this means that they do not have access to social protection, this becomes a problem that leads the worker and their family environment to a situation of total vulnerability, extreme poverty and above all social exclusion, This brings with it a series of consequences that have a great impact on the well-being not only of the individual but also of their family environment for the exercise of human rights, in this specific case the right to social security, but something that must be taken into account is that these types of consequences and problems do not only affect the population as such, but also greatly affect economic growth, productivity and the social order of countries (Sattar & Mahmood, 2011).

Due to these factors, it is identified that this population does not have access to the mechanisms of contributory schemes, among others, social security, all this due to causes such as social exclusion that leaves them outside of legal coverage, limited contributory capacity, and most importantly in the object of study, a low and unstable income, this prevents them from having access to many benefits including the affordability of adequate and formal housing (Newton, Arboleda, Connors & Figueroa 2020), which makes it necessary for them to resort to invasions or favelas as it is called in other countries, or simply marginal areas that are usually established on the slopes of rivers and streams, peripheral areas where there is a lack of public utilities such as water, sewage and energy, without means of transport and educational centres or establishments; All of this means that they are left out of certain coverage through programmes designed for families that have some kind of income, even if it is limited, i.e. there is no effective minimum coverage, which has been called the "missing middle" (Boris & Prugl, 2016).

All this has a great impact on companies, which in one way or another are benefited, because if employees have coverage in social protection, companies will obtain better results in their productivity and will make them more competitive, as there are factors that are relatively proportional, for example, greater health coverage, absenteeism in companies is lower, this in turn generates greater stability and retention of their employees, greater productivity of companies higher income for their workers and this is undoubtedly reflected in greater motivation in the worker. (Scheil-Adlung, 2014).

On the other hand, some studies related to income and job security have established that an increase in social security coverage by 10 per cent between 2006 and 2011 increased income

per worker by between 1.4 and 2 per cent and generated gains of between 1.3 and 3 per cent (Lee & Torm, 2017).

The establishment of a system of social protection coverage for workers in the informal economy, as already mentioned, brings with it a number of benefits for society, as it contributes to the facilitation of the transition from the informal to the formal economy. The greater the number of workers covered by social protection coverage, the more effective and efficient the financing of the social protection system becomes and the more equitable the burden of social benefit assistance from taxation is alleviated, not to mention that this would ensure the long-term sustainability of the social security system (Smit & Mpedi, 2010).

Labour informality in the city of ibagué and the proliferation of informal housing.

One of the main factors that generates informal settlements in Latin American cities is the accelerated growth of the urban population, and governments have addressed this situation through pilot plans aimed at improving neighbourhoods and planning for population integration (López-Morales, Shin & Lees, 2016). According to Hofman & Valderrama (2021), this phenomenon has been so relevant that the average in countries such as Brazil, Chile, Colombia, Mexico, Peru, Ecuador and Venezuela presented growth figures of 47% to 70% between 1950 and 1980 (Hofman & Valderrama, 2021).

Factors such as the modernisation of agriculture, which to some extent impoverished the rural population who did not have the resources to be competitive, the improvement in the quality of life and the presence of better opportunities in urban areas promoted an accelerated migration of population and thus the growth of informal settlements; In addition to this, there is the low investment by the State in rural areas, especially in aspects or fields such as public services, access to adequate housing, the affordability of better quality education and the improvement of roads are factors that influence when compared to urban areas, some of the figures that reflect this situation are as follows: Between 1990 and 2006, rural areas had a water supply coverage of 51.2%, sanitation coverage of 29.5% and public lighting coverage of 73.6%, while in urban areas the figures are 92% for water supply, 77.1% for sanitation and 97.1% for electric lighting (United Nations, 2007). Undoubtedly, these are figures that drive migration to rural areas and the generation of informal settlements.

This phenomenon is generated by a tendency to a concentration of the urban population in spaces of homogeneous social stratum and this leads to isolation, which has strongly unfavourable and negative consequences in society, affecting in a great way aspects such as education, the use of public services and above all, in reference to the subject under study, a fracture in the

labour field, as it hinders the opportunities to access the labour market under equal conditions for the less favoured classes, which without being redundant are those established in informal settlements. (Kaztman, 2003).

According to information from the municipal mayor's office of Ibagué, for the year 2018 the municipality had a population of around 569,336 inhabitants and for the year 2017 the total population in the municipality was 564,076 inhabitants, according to information from DANE, of this population, 95%, equivalent to 533,351 inhabitants located in the urban area and 5%, equivalent to 30,725 people with settlement in rural areas, this presents a relationship that is obviously inversely proportional between the population and the territorial extension of Ibagué. The population growth observed since 2005 to date is 14.3% (71,206 more inhabitants compared to the population in 2005). Of the total population in 2018, 48.5% are men and 51.5% are women (Alcaldía de Ibagué, 2020).

For this phenomenon to occur in the city of Ibagué, there are factors that cannot be ignored; Migration in the mid-twentieth century, the tragedy due to the landslide of the Nevado del Ruiz volcano in the municipality of Armero in 1985 was an aspect in which there was a large migration to the capital city, this largely because it was the major centre of attention of the victims, many of whom after overcoming the emergency decided to stay in the city (Herd, 1986), and on the other hand, the tax exemption for the establishment of large companies and factories created temporary employment opportunities, since once the exemption period was over, most of them ended their operating cycle and were forced to close permanently, Another factor of great influence is the armed conflict in Colombia, of which the department of Tolima has been no stranger, where the vast majority of populations, especially in the south of the department, were forced to abandon their lands due to the pressure of illegal groups (Forero, 2005), These situations have led in some cases to the invasion of both communal and private plots of land and the creation of informal settlements on the slopes of the Combeima river, streams and marginal areas abandoned by the state.

Faced with the impossibility on the part of the government administration of the municipality to stop migration by coercive means, it has opted for the parceling of urban land and permission for the appropriation of some ejido land, but all of these settlements lack public services and infrastructure, which is clearly a sign of the administration's acquiescence in the proliferation of informal settlements in the city of Ibagué (Vargas, Jiménez, Grindlay & Torres, 2010).

Faced with this problem, some administrations have resorted to the design of social and priority housing projects, programmes that are mostly generated by the central government, initially through the Instituto de Crédito Territorial (ICT), housing promotion fund and later by the banks together with private construction companies, which in some way have solved or

diminished housing deficits, but under no circumstances have they tended to eradicate informal settlements, incorporating a new variable due to the arrival of Venezuelan migrants in recent years, which has further increased unemployment figures and informal work in the city (Gonzalez, 2014).

Conclusions

Colombia has been characterised as one of the countries in Latin America that has made the greatest efforts to establish norms in its legal system aimed at protecting human rights. It is essential to continue along these lines, and even more so those that have to do with housing policies, to integrate the guidelines of order and specifically oriented towards the population that works informally and does not have social security, let alone an income that allows them to project their right to housing in the long term.

Everything established in the legal system regarding the satisfaction of the right to housing as established in the Constitution and those parameters and guidelines suggested by international organisations that should be taken into account in the design of public policy and housing projects in the municipality of Ibagué, should be based not only on the affordability of adequate housing but also to eradicate and prevent the proliferation of informal settlements, based on guarantees of non-discrimination and equality in the various instruments that have been established by international human rights law.

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Notes on contributor

D. Rodriguez Perdomo holds a Master's degree in Public Law from the UNIVERSIDAD SANTO TOMAS (2010- 2015), is a professor at the Faculty of Law at the Universidad Cooperativa de Colombia, currently a PhD student in Law and a researcher, he has published on topics such as social housing, law and labour.

L. Gallego holds a PhD in administration from the Universidad Simon Bolivar (2018-2021), a master's degree in finance from the Universidad Viña del Mar (2010-2012), is a professor at the Faculty of Economic Sciences of the Universidad Cooperativa de Colombia and a researcher for the PlanAudi group, and has published on topics such as free-use technology tools, solidarity economy and environmental assets.

O.E. Castro holds a doctorate in law from the Universidad Santo Tomas de Aquino, Magister en Derecho. Universidad

Sergio Arboleda, professor at the Faculty of Law of the Universidad Cooperativa de Colombia, researcher, and has published on issues of informality, labour and society.

ORCID

D. Rodriguez Perdomo <http://orcid.org/0000-0002-3306-388X>

L. Gallego <https://orcid.org/0000-0003-3131-235X>

O.E.Castro <http://orcid.org/0000-0002-3018-1135x>

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