

Visit to the Metropolitan Area of Buenos Aires: End of Mission Statement

1 December 2020

Introduction

1. The Shift conducted its first virtual human rights fact-finding mission to Buenos Aires, Argentina between 23 – 28 November 2020. The purpose of this visit was to assess the housing conditions of the people living in the *Área Metropolitana de Buenos Aires* (AMBA), and to determine whether the government is meeting its obligations under international human rights law. Argentina has ratified both the International Covenant on Economic, Social and Cultural Rights (1986) and the American Convention on Human Rights (1984), which enshrine the right to adequate housing and the right to property respectively. Moreover, the national Constitution provides constitutional status to international human rights treaties. Argentina also recognizes the right to adequate housing in its national constitution (Art. 14), as well as in the Buenos Aires City Constitution (Art. 31) and has passed several pieces of legislation that are intended to give life to that right, including Law 14.449 on the just access to habitat.
2. There are currently 15,000,000 inhabitants living in the Autonomous City of Buenos Aires (hereinafter, City of Buenos Aires) and 43 municipalities that comprise the AMBA region. According to the last census conducted in 2010, Argentina has a high rate of urbanization; nationally, 92% of the population was found to be urban, and in the province of Buenos Aires, the percentage of urbanization is 96%. 41.6% of the population in the Province of Buenos Aires live in poverty (INDEC, 2020), and a majority live in housing conditions that violate their fundamental human rights. The lack of access to clean water, sanitation, education, health and security of tenure are just a few challenges that many residents throughout Argentina experience daily. We met with several communities in AMBA including Rodrigo Bueno, Villa Olímpica, Barrio Ferroviario de San Fernando, Guernica, 14 de Febrero, Villa 31 and Villa 21-24.
3. In many of these communities, residents expressed concerns over the detrimental conditions they are forced to endure and the precarious future of their housing situation. Others told us of successful resistance, organization and cooperation with governments leading to secure and dignified housing. The Shift thanks the residents of these communities for meeting with us and sharing their stories. We would also like to thank all of the civil society organizations who assisted us throughout this mission, as well as the public officials who took the time out of busy schedules in order to facilitate our work.¹

¹ We are particularly grateful for the support received from ACIJ, CEAPI, CELS, and el Ministro de Defensa Publico de la Ciudad Autonoma de Buenos Aires.

4. The following statement represents The Shift's preliminary findings and recommendations. Due to the urgency of the concerns identified as well as the COVID-19 context, we have focussed on the most pressing human rights issues confronting the residents of AMBA. A final report covering a broader range of issues will be released in early 2021.

Speculation and Inequality in AMBA

5. Inequality is a central feature of housing conditions in AMBA. While this can be traced well into Argentina's history, in recent years it intensified under President Macri who allowed private markets to dictate housing policy and lowered public investment in housing. This not only gave rise to land and housing speculation, it also pegged rents and mortgages to rising inflation and failed to provide legal protections for poor, low-, and moderate-income households. The former UN Special Rapporteur on the right to housing, Raquel Rolnik (2012), as well as the UN Committee on Economic, Social and Cultural Rights (2018) identified intense speculation in land and housing as a significant barrier to realizing the right to housing in Argentina and a driver of housing inequality.
6. With the ongoing use of land and housing for speculation, Buenos Aires has seen an unrelenting proliferation of new luxury housing intended for tourists, investors and the affluent, putting more pressure on housing costs in Buenos Aires and increasing the number and size of informal settlements and land occupations. We were shocked to learn that, according to official records, there are approximately 140,000 empty homes in the city of Buenos Aires (CABA, 2019). Meanwhile, with 8,000,000 living below the poverty line in the province of Buenos Aires, those with few resources live in grossly inadequate housing conditions, often without basic services like electricity and water and generally outside of the city (INDEC, 2020).
7. The Government's hands-off approach to housing privileges property owners at the expense of tenants in formal and informal rental markets. For example, the government imposes no capital gains tax on property allowing the owner to benefit from any increases in land value, whereas the lack of sufficient regulatory or protective legislation for tenants, particularly those residing in the informal rental market, means they are required to pay ever increasing rents and are always under the threat of eviction.
8. To make matters worse, rather than using public lands to address acute housing needs, we learned that the city of Buenos Aires and the departments in the Metropolitan area have been selling their lands to private developers, at times below market value, for projects, like "gated communities" that will not benefit disadvantaged households. Not only does this contribute to rising speculation in the housing market, it also reduces land available for low-income communities, deepening the housing crisis and resulting in an increase in squatting and occupations of private properties. This only serves to increase tensions between low-income communities and land owners, sometimes even resulting in violence and intimidation.

9. Though Argentina is not one of the most unequal societies in the world, the top 10% of the country's population controls 40% of the wealth of the country compared to just 17% by the bottom 50% (World Inequality Database, 2019). Much of this wealth is derived through land and housing speculation. Socio-economic inequality of this nature produces conditions of unrest, protest and conflict as seen in countries around the world including Chile, Hong Kong, Lebanon and Nigeria.

10. **We were pleased to learn that in 2021 the National Congress intends to pass a one-time wealth tax, a portion of the revenues from which will be directed toward affordable housing and upgrading of informal settlements. A 'solidarity' tax will also be imposed on certain foreign purchases, and a portion of the revenues will be invested in low-income or social neighbourhoods. We also encourage the City of Buenos Aires to further develop its proposal to implement a vacant housing tax in an effort to curb speculation and increase financing for the development of social housing. These are important steps. The national Government must also acknowledge that the country is in the midst of a housing crisis and that to address it will require the adoption of a national plan of action that is consistent with the governments of Argentina and Buenos Aires' international and domestic human rights obligations, including obligations to ensure non-discrimination and equality between women and men. We direct both governments to the report of the UN Special Rapporteur on the right to housing on human rights-based housing strategies.**

Evictions and Forced Evictions

11. We remind all governments in Argentina that under international human rights law, forced evictions are a gross violation of human rights and are never justified, and that evictions into homelessness are strictly forbidden (CESCR General Comment 7, 1991). "Stay Home" orders such as those imposed by governments in Argentina demonstrate an understanding that during this pandemic, eviction may in fact be a death sentence. Despite this, The Shift observed that evictions and forced evictions continue to take place in AMBA, threatening the lives of thousands of families and individuals.

12. We commend the Government of Argentina for issuing Decree 320 on 12 March 2020, aimed at addressing the health and socio-economic crisis caused by COVID-19 and which includes a moratorium on evictions in the informal and formal sectors, set to expire on 31 January 2021.

13. It is our understanding, however, that Decree 320 was not accompanied with sufficient public awareness raising campaigns, therefore it was often ignored by landlords, allowing extrajudicial evictions to continue to occur, in particular, within the informal rental sector. We met with several residents in informal settlements who had been evicted from their rental units, citing they did not have formal contracts or recourse to prevent the eviction. Some of these tenants indicated that they had experienced violence and intimidation from their landlords, compelling them to self-evict.

14. The most shocking forced eviction to have taken place during the pandemic was that of the Community of Guernica, which occurred in the early hours of Thursday, 28 October 2020, when 4,000 police officers, helicopters and water tanks stormed a camp of 1,400 families. According to reports, the eviction proceeded after a breakdown in negotiations between the residents and the provincial governments.
15. Many of the residents of Guernica, who were clearly traumatized, spoke with us about the brutal violence they experienced during the forced eviction, some having lost all of their possessions as a result. It is our understanding that while some families were offered alternative accommodations, most were left homeless with nowhere to go. Others spoke to us of being offered shelter spaces that were dangerous, violent, lacked freedom of movement and were subjected to work in order to 'pay' for their stay.
16. We understand that the community of Guernica, for the most part, remains united and organized despite this forced eviction. **In order to address the harm inflicted on them, the Government of Buenos Aires province and Partido de Presidente Peron must recognize their human rights claims, and negotiate with them as a community in order to ensure that they are urgently relocated to an acceptable plot of land that has access to services, including water and electricity, within the Department.**
17. **Governments in Argentina and AMBA must declare an end to all forced evictions or displacement of informal settlements. In order to do so effectively, they must also ensure necessary resources are available, including to monitor and prevent extrajudicial evictions.**
18. **All levels of government must ensure necessary resources are available in order to monitor and prevent evictions of those tenants renting in the informal market, including tenants in informal settlements. In the case of informal settlements, the City of Buenos Aires could utilize the information gathered through RENABAP and work jointly with the Ministry of Public Defence (*Ministerio Público de la Defensa*) to establish local human rights monitors to register tenants and ensure compliance with tenancy rules as well as the current eviction moratorium.**

Homelessness

19. Under international human rights law homelessness is a prima facie violation of the right to housing and triggers right to life concerns (CESCR General Comment 4, 1991; HRC General Comment 36, 2019). According to a census conducted by the Public Ministry of Defense in 2019, there were approximately 7,250 people reported to be experiencing homeless in the City of Buenos Aires and thousands more are living in precarious housing situations.
20. We are particularly alarmed by the disproportionate representation of LGBTQI+, particularly transgender persons, in the homeless population of Buenos Aires. In 2016 it was reported that 65.1% of the city's transgender population was living in precarious housing or was at imminent risk of homelessness, a figure that is on the rise.

21. It is widely accepted that those experiencing homelessness are the most vulnerable to contracting the coronavirus; the lack of shelter makes it impossible to comply with stay-at-home orders, lacking access to adequate water or sanitation means they cannot wash their hands, nor can they practice physical distancing, particularly in congregate settings like overcrowded homeless shelters.
22. **The City of Buenos Aires provides programs to those living in homelessness including an emergency hotline, shelter space, a street outreach team, and subsidies for hotels. We commend the City for the steps taken to address the needs of those living in homelessness, but increased action must be taken to ensure permanent housing, particularly in the context of the pandemic.**
23. **The City of Buenos Aires and the municipal governments of AMBA, with the support of the provincial and national governments, must ensure shelters are only a short term measure and create an environment of trust and dignity for its residents. They must also ensure sufficient safety measures are in place to prevent the spreading of COVID-19.**

Informal Settlements, Tomas and Villas

24. Informal settlements must be understood from two fundamental premises. On the one hand, they are systemic human rights violations brought on by the failure of governments to secure the right to housing, depriving residents a life of security and dignity. On the other hand, they are a powerful expression of communities coming together to claim their right to housing, through the creation of homes, culture and community life in the most adverse of circumstances. The informal settlements we visited in Argentina² are the embodiment of this striking duality.
25. In the national context, as well as in AMBA, informal settlements and the occupation of abandoned lands to secure the right to housing are a grassroots response to the government's failure to address the housing, unaffordability, and homelessness crisis experienced by middle to low income communities. Informal settlements manifest at times as an organized and political response to secure the right to housing and address the inequalities created by speculative housing and land markets aimed at the upper-middle and elite population. As of 2018, there are 1,340 informal settlements across AMBA that house 1,203,000 people; this accounts for roughly 8.2% of the region's population (Techo, 2018).
26. We were astounded by the level of organization found in most informal settlements we visited, particularly as a response to the pandemic. We understood that many informal settlements, in the absence of government support, organized to move forward sanitary, social and economic programs to meet the needs of their communities. These included food banks, health services in coordination with volunteer medical staff, clothing drives, support

² We visited the informal settlements of: Rodrigo Bueno, Barrio Ferroviario de San Fernando, 14 de Febrero, and we spoke to residents from la toma de Guernica, Villa 31, Vila 20, Villa 21, Villa Palito, Barrio Playon de Chacarita.

for women experiencing intimate partner violence, childcare and schooling, as well as the provision of water, electricity and garbage pick up. There is also a network between informal settlements, based in solidarity, where best practices are shared and capacity building is offered between communities.

27. Despite their impressive level of organization and self-sufficiency, the communities were still vulnerable to COVID-19 and some were ravaged by the virus, in large part due to government inaction. As of 26 May 2020, almost half of all cases reported in the City of Buenos Aires were in informal settlements. Villa 31 had the highest infection rate of any of these. Many residents there lost their lives, including noted Human Rights Defender and community leader, Ramona Medina who, in the middle of the pandemic, fought to secure access to water for her community and ended up contracting the virus.
28. Like Villa 31, we heard of and visited communities that do not have any access to water, health care services or sanitary products like disinfectant and alcohol gel to protect themselves from the virus. In some communities, we were told that ambulances would not enter, forcing residents to have to take public transport, drive, or hail taxis in order to reach the hospitals, not only jeopardizing their own health but that of the broader population. Many also experienced food shortages due to a loss of livelihood. Additionally, without proper connectivity, many children in informal settlements are having difficulty continuing their education through the pandemic. We commend the Government of Argentina for issuing emergency subsidies, which served to alleviate economic pressure caused by COVID-19. However, these subsidies were not sufficient to cover basic necessities throughout the course of the pandemic.
29. We would like to commend the City of Buenos Aires for its commitment to promoting the urbanization and inclusion of informal settlements across the city. Over the last four years, the City of Buenos Aires has constructed 6,000 housing units and made significant investments in upgrading informal settlements. A city representative expressed to us their commitment to meaningful participation of residents in the upgrading process, to ensure economic integration and respect for human rights.
30. Despite the aforementioned measures, residents of informal settlements reiterated to us that many felt abandoned by their governments during a pandemic that posed a threat to their lives and well-being.
31. **Under international human rights law, the government of the City of Buenos Aires, the municipal governments in AMBA, and the province of Buenos Aires as well as the government of Argentina must take urgent measures to:**
 - **Ensure all residents of informal settlements/encampments have access to an adequate, affordable and proximate supply of water, toilets, showers, sanitation services, soap, hand sanitizer, disinfectants, and masks. In communities with limited access to local water supply, water tankers and the equipment to create boreholes must be urgently**

provided. Governments must ensure that water and sanitation services are provided in a manner that allows residents to comply with strict hygiene measures and physical distancing. In particular, the municipal governments of San Fernando and Almirante Brown must urgently furnish the Barrio Ferroviario and 14 de Febrero with access to water, stable electricity, garbage collection, and access to health care including ambulance services. In the medium to long term, they must meaningfully engage with the communities to determine a path of regularization that is led by the community and compliant with international human rights standards.

- **Ensure residents of informal settlements have non-discriminatory access to public and private health services proximate to their communities and ensure that testing for COVID-19 is free of charge.**
- **Work with community leaders and residents to assist them in developing emergency plans and ensure these plans are well communicated.**
- **Recognize that residents of informal settlements/encampments often depend on the informal economy for their livelihood and ensure any emergency financial aid offered to those in the formal economy affected by the pandemic is also made available to those in the informal economy so that they do not disproportionately suffer from the economic downturn triggered by the pandemic.**
- **Ensure access to the internet for residents of informal settlements so that children may continue to exercise their right to education when at-home learning is required.**

UVA Mortgages

32. The 2016 public policy to create a mortgage market and provide homeownership opportunities to low- and middle-income families has failed to provide the security promised and has, in fact, proven to be predatory. In its current form it is undermining the right to housing of tens of thousands of families. Under international human rights law, affordability is an essential characteristic of the right to housing and is to be based on household income rather than on what markets dictate or can bear. Because they are tied to inflation rates, the *unidad de valor adquisitivo* (UVA) mortgage loans have proven to be extremely unaffordable and unpredictable, with fluctuating interests peaking at 200% in the last 4 year period.
33. In the year it was created, the UVA mortgage scheme was the only one available in the country. Despite being met with skepticism by some because of the historical inflation crises that have plagued Argentina, families were told that payments would never exceed 25% of household income. Many mortgagees said to us that they were sold a dream. For low-income communities, some from informal settlements, the promise of an affordable path to homeownership meant the possibility of transferring wealth and security to their children. These promises, however, were soon dispelled as inflation has increased drastically and households face ever growing mortgage payments far exceeding 25% of their income.

Residents in Olympic Village told us that they are having to choose between paying their mortgage or paying for food, education, healthcare or other necessities.

34. Today, there are a total of 100,000 households who hold UVA mortgages and approximately 1,000 of them have accrued debts that surpass 150%. The catastrophic effects that would occur if thousands of households default on their mortgages have been temporarily delayed due to Decree 320, which has frozen payments until February 2021. The payment freeze does not apply to the principal amount of the loans, which continue to increase as a result of rising inflation. In February 2021, many mortgagees will face a monthly payment that has increased by 60% relative to their last payment before Decree 320 was enacted. This increase is in addition to the arrears that have been accrued between March 2020 and February 2021. Several individuals expressed to us that due to the increase in monthly payments and with the loss of livelihood caused by the pandemic, it will be impossible to cover their mortgage payments and debt once Decree 320 expires. The families we met are suffering extreme anxiety about what the future holds.
35. Government officials told The Shift that they understand the very difficult situation the UVA loans have created for many families. Though a plan to address the situation is not in place, we were told that a fair solution is being worked on.
36. **As a virtue of the UVA mortgages being issued by the Central Bank of Argentina and the central banks of the provinces, we are sympathetic to the notion that for economic well-being the repayment of these mortgages may be important. This difficult reality, however, cannot justify violations of the right to housing. Any fair solution developed by the government must be in keeping with their obligations under international human rights law. Thus, governments in Argentina must address the imminent risk of eviction faced by thousands of families and/or crippling debt, by:**
- **Restructuring UVA mortgages so that they are no longer tied to inflation and instead are based on the *Hogar* Formula. Governments must ensure that mortgage payments moving forward do not exceed 30% of household income.³**
 - **Ensuring that UVA mortgagees do not emerge from the pandemic overburdened with mortgage arrears. The Government of Argentina must provide debt forgiveness and debt repayment plans that do not incur punitive interests. Any repayment plan coupled with mortgage payments should constitute approximately 35% of household income and not exceed 50%.**

Precarious Housing of Renters

37. Of particular concern to The Shift is the over-indebtedness of many renters, resulting in overcrowded housing and placing them at serious risk of eviction. Prior to the pandemic we

³ The *Hogar* formula is based on the evolution of household income and inflation rates. Adjustments for inflation rates, however, are capped at 2%.

understand that many renters were paying more than 50% of their household income on rent, 20% higher than the common threshold of affordability. Perhaps not surprising in light of the fact that rental housing costs increased by 60% in a one year period between 2019-2020.

38. The onset of COVID-19 and widespread job loss across AMBA, including for those working informally, has created serious precarity demanding the immediate attention of the government. New COVID-related household expenses such as sanitizers, medicines, and increased transportation costs are crippling families. Households are rapidly accruing greater debt loads, borrowing from family, friends and acquaintances simply to pay their rent.
39. Despite national officials recognizing this household debt crisis, we were surprised to learn that the government has not put in place necessary supports to ensure tenants remained housed. **We recommend that the Government of Argentina immediately establish a rent subsidy programme for tenants affected by COVID-19 related debt and a careful transition from after the expiration of Decree 320, where households at risk of homelessness and overindebtedness are provided with economic support.**

Women and the Right to Housing

40. We would like to conclude this preliminary overview of concerns by noting the disproportionate burden on women caused by the housing crisis in Argentina, a burden that has been significantly exacerbated since the onset of COVID-19. The stay-at-home orders have caused dramatic increases in domestic-based violence, and after only 6 months of confinement 137 women, or one woman every 36 hours, have been killed as a result of domestic violence (El Periodico, 22/09/2020). According to a study conducted in July 2020, there was a 32% increase in calls made to a domestic violence hotline with daily calls regarding psychological violence increasing by 67% (Perez-Vincent and Carreras, 2020). **Where women's lives are at stake, the government must take immediate and priority action.** The pandemic has also highlighted how women are often overburdened with domestic work, caretaking of children and elders, and community organizing, relative to their male partners.
41. The Shift is also concerned by the heightened economic violence prevalent in AMBA, made more acute by COVID-19. We were told that women in Argentina are often targeted for predatory loans because it is known that they are unlikely to leave their homes and risk the well-being of their families by defaulting on their payments. As a result women are sacrificing their own well-being in order to make ends meet. Inversely, property titles are often held by men or granted to them in urbanization processes, creating an asymmetry between those who own property and those who own debt.