



# HOUSING AND LAND RIGHTS NETWORK

Habitat International Coalition

## Urgent Action Appeal Buenos Aires: AR – 10032017

### Fire, neglect and forced evictions in La Boca Buenos Aires, Argentina

1106 forced out of their homes, 64 families in risk of imminent eviction and 300 families ongoing eviction judicial proceedings

#### Brief Description

The historical neighborhood of La Boca, located in front of the river Matanza mouth, is one of the most peculiar and tourist areas of the city. In recent years, the neighborhood is suffering the perverse effects of the so-called urban development, only in 2016 a total of 1,106 citizens have been evicted from their homes, in the first three months of 2017 the eviction of 64 families has been ordered and there are a total of 6 ongoing eviction judicial proceedings involving around 300 families. The present current dynamic of evictions seems to lead to the replacement of the resident population of the neighborhood through a perverse process of gentrification.



Map of Argentina with a detail of the City of Buenos Aires

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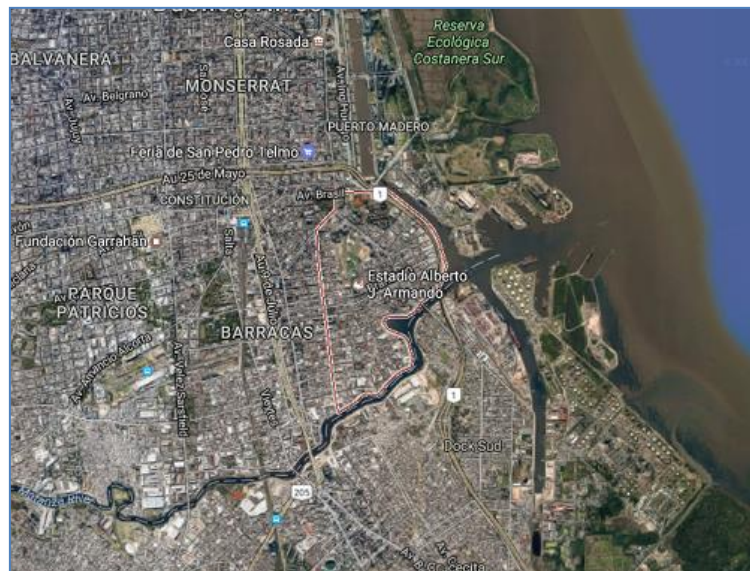
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## Background

The City of Buenos Aires is no stranger to forced evictions, in fact, in the last decades there has been a process of increased housing deprivation and growing forced evictions. In the early 2000s, the real estate market was the safest option to invest the savings after the economic crisis in Argentina. In this context of demand and construction boom, coupled with the speculative logic and the lack of control of the authorities, house prices soared, making even more difficult for population with limited economic resources to access affordable housing. In turn, processes of the city and its neighborhoods valuation and requalification intensified evictions and developed into processes of gentrification. The economically most vulnerable population and its multiple residency modalities - rooms in hotels (*hoteles truchos*), occupied houses, rentals and subrentals of rooms, *conventillos* (collective urban housing) - were and are the main affected of this process. The Government of Argentina and the Autonomous Government of the City of Buenos Aires acted in accordance with the speculative dynamics and have sustained this process. The Government facilitates evictions through legal and administrative instruments and modified the welfare policy and practices to articulate it around the eviction operations and the hardening policies against informal housing modalities.<sup>1</sup> Regarding the legal instruments, the legal framework contemplates the immediate eviction (*desocupación inmediata*) in the Civil and Commercial Procedural Code ([Law 25.488](#)) in case of non-payment or contract expiration. In addition, the Government of the City of Buenos Aires introduced the so-called administrative eviction, without judicial requirement, through the [Decree of urgency No. 1510/GCABA/97](#), which establishes that "the administration may use force against person or property of the administered, without judicial intervention, when the public domain must be protected, evicted or demolish buildings that threaten to ruin, or have to seize movable property dangerous for the safety, health or morality of the population or intervene in the sanitation of real estate. The resources brought by the administrators against administrative acts shall not suspend their execution and effects, unless otherwise expressly provided." Both processes contravene appropriate procedural protection and due process established by international human rights bodies, to which Argentina is bound by the International Covenant on Economic, Social and Cultural Rights, including the obligation of genuine consultation with those affected, adequate and reasonable notice prior to the scheduled date of eviction, provision of information, legal remedies and, where possible, of legal aid.

The neighborhood of La Boca has been and is a victim of this process of gentrification, valuation and requalification that evicts the most vulnerable of their houses. Homes bought before 2010, when the value of the land was low, have multiplied their value. On the other hand, since the approval of [Law No. 4,353 of the District of Arts](#) by the Autonomous



Map of Buenos Aires with the location of La Boca neighbourhood

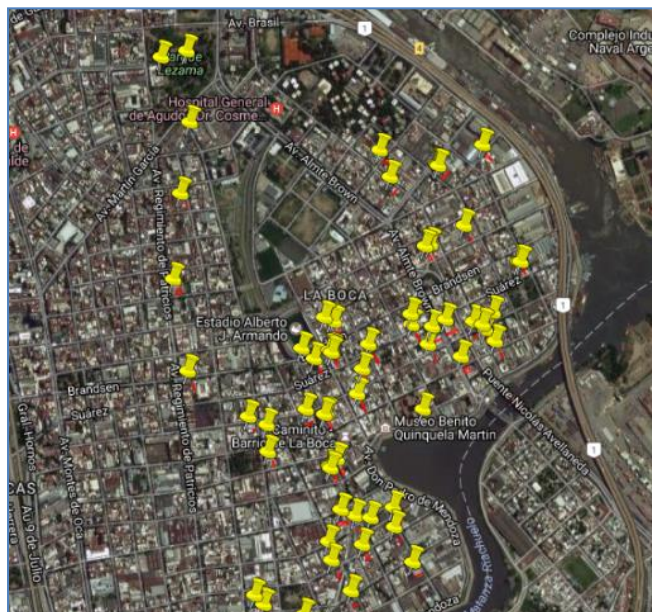
City of Buenos Aires in 2012, evictions in the neighborhood of La Boca have multiplied, generating in 2016 the expulsion of 1,106 citizens. In the first quarter of 2017, it is planned to evict 64 families from the neighborhood in 19 already ordered evictions. In addition, there are a total of 61 ongoing

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<sup>1</sup> Verón N. (2013), Desalojos en la ciudad de Buenos Aires: La producción de las categorías y los espacios de la asistencia habitacional, in QUID 16 Revista de Estudios Urbanos number 3, in <http://publicaciones.sociales.uba.ar/index.php/quid16/article/view/1136> Last visit 20 of March of 2017

judicial eviction proceedings that, if carried out, will leave more than 300 families on the street. The magnitude of forced evictions and summary proceedings is one of the gravest dimensions of the housing emergency in La Boca. The law of the district of arts has favored an exclusive and predatory property development against the most disadvantaged, worsened by the tax reliefs and payment exemptions policies for development companies and the ones established in the neighborhood. Current inhabitants of La Boca must leave the neighborhood, either by eviction or by the increase in the cost of living. Clearly, the authorities of Argentina and the city prioritize the right to property over the right to housing, despite the fact that access to adequate housing is one of the main problems affecting the neighborhood of La Boca and that *Conventillos* and forced evictions - civil, criminal, administrative ... - are part of the daily life of the inhabitants of the neighborhood. The problem of forced evictions is accompanied by a very poor state policy on housing, which consists of the payment of an insufficient subsidy (1800 pesos of subsidy when the rent of a room ranges from 4000 to 8000 pesos) for ten months to the evictees.<sup>2</sup> Moreover, the fires in the neighborhood are unfortunately common and resulted in 15 deaths in 6 years and rendered half a hundred families homeless. Nevertheless, no prevention measures have been put in place and fire exits for firefighters remain broken, unpressurised or covered with ceramic tiles or cement, just as they were when fires took place. This fact puts into question the interest of the government to stop the fires and ends up expelling more families from the neighbourhood.<sup>3</sup>

To this situation must be added the long-denounced lack of transparency with which the institutions (Housing Institute of the City) have acted in the adjudications of social housing in La Boca, among other things granting several apartments to a single family or assigning only the 20% to residents of the neighborhood, hence promoting the expulsion of the current inhabitants of the neighborhood.<sup>4</sup> The need for adequate housing in the neighborhood is not the only one. The list of rights and elementary needs is also related to health - lack of economic and personal resources for primary care -, education - with schools in precarious situations and very limited admissions - lack of public spaces and sports and cultural centers, among others. This situation has to be added to the criminalization of residents and institutional violence resulting in the murder of dozens of young people each year.



Map locating the houses affected by eviction processes, elaborated by the *Observatorio del Derecho a la Ciudad*

### Affected Population

The population affected is basically the historical population of La Boca, about 90,000 inhabitants, which in general is and has been composed of families with limited economic resources. Instead of supporting the families of the neighborhood and offering greater opportunities for them, the

<sup>2</sup> Observatorio del Derecho a la Ciudad (2017), Emergencia Habitacional en el La Boca: Parte 1 – Los desalojos desbocados <http://www.observatoriociudad.org/?s=noticia&n=113> Last visit 20 of March of 2017

<sup>3</sup> La retaguardia (2016), “La Boca: negocios que arden”, <http://www.laretaguardia.com.ar/2016/01/negocios-que-arden.html> Last visit 20 of March of 2017

<sup>4</sup> Noailles, M. (2015), “Casa Amarilla: De La Boca para afuera”, en Surcapitalino, <http://surcapitalino.com.ar/detalle-noticias.php?id=3715> Last visit 20 of March of 2017

process undertaken by the public authorities gives greater insecurity and entails abuse to the vulnerable population of the city.

### **Duty Holders**

The direct responsible for the evictions and the emergency housing situation in La Boca is the Autonomous Government of the City of Buenos Aires, responsible for the approval of the Law of the District of Arts and public policies that requalifies the neighborhood land and benefits private entities. The City Housing Institute (IVC) is also a responsible public entity in this context since its objective is precisely to promote the right to housing in the city. In addition, the province of Buenos Aires and the State and Government of Argentina have the primary responsibility and obligation to respect, protect and guarantee the right to adequate housing, as well as all human rights.

### **Actions Taken and Remedies Attempted**

The neighborhood of La Boca has a long and deep tradition of resistance against injustice towards its inhabitants and its territory. The families of the neighborhood are often mobilized with demonstrations and popular protests against evictions, fires, murders of young people by police authorities, lack of facilities and closure of social programs. The historical resistance to defend the *conventillos* of the neighborhood as well as its people has crossed borders. In this context, different organized initiatives have been put in place to defend human rights in the neighborhood as the Housing and Habitat Group "*La Boca Resiste y Propone*" (La Boca resists and proposes) and the Observatorio del Derecho a la Ciudad (Observatory of the Right to the City). In addition, neighborhood support groups are attempting to end administrative evictions, which, as mentioned, have very few recourse options and contravene appropriate procedural protection and due process. In this process, city aid wardens ask inhabitants to enter their houses and afterwards they state the house is in danger of falling to activate the almost automatic eviction operation, without option of appeal or second opinion of experts. Support groups are warning the neighbors and evaluating protection mechanisms, such as providing experts to evaluate housing conditions.

### **Legal Aspects**

The Constitution of Argentina, enacted in 1995, recognizes the right of Argentinians to a decent housing in its article 14 bis. In addition, in the same year 1995, Argentina approved the Law 24,464 on the Federal Housing System to enable the population of insufficient resources access to decent housing quickly and efficiently. In addition, the city of Buenos Aires sanctioned in 2006, following the proposal of the residents, the Law No. 2,240, which declared the Urban and Environmental Emergency in La Boca, in relation to housing, services, facilities, green spaces and productive activities, and created the Executive Unit of the Urban and Environmental Recovery Program of La Boca neighborhood to develop an urban renewal program (which seems was never developed). On the other hand, the Law No. 4,353 of the District of Arts, developed 6 years later, in 2012, referring to the urban renewal of the neighborhood stipulates in its article 29 that the government will address the situation of social vulnerability in the Area, with particular attention to the need for housing, and will provide actions aimed at facilitating the permanence of families living in the area. This assumption and the legislative and constitutional references to decent housing have been clearly violated.

On the other hand, Argentina is a founder state of the Organization of American States, which approved the American Declaration of the Rights and Duties of Man and the Charter of the Organization of American States at the 9th International Conference of American States in Bogotá, Colombia. Both documents give an essential importance of housing to guarantee the right to well-being and health. In this regard, article 34 agrees that adequate housing for all sectors of the population is a basic element for equal opportunities, the elimination of poverty and the equitable



distribution of wealth and income, and that States should devote their utmost efforts to its achievement.

With regard to international law, Argentina ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966 in 1986. The Covenant establishes "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and shelter, and to the continuous improvement of the living conditions". For this reason, the state is obliged to give effect to these recognized rights and to apply the corresponding General Observations principles (GC No.4 on adequate housing and No. 7 on forced evictions). In addition, the Argentina State is obliged to align its domestic legislation to give effect to its obligations to the treaty, as stipulated in General Comment No. 9 on the domestic application of the Covenant. Moreover, the General Comment No. 7 on forced evictions states "the fundamental obligation [of governments] to protect and improve houses and neighborhoods, rather than damage or destroy them" and that "people should be protected by law against unfair eviction from their homes or lands". The United Nations Commission on Human Rights, replaced by the current Human Rights Council, also has affirmed that "the practice of forced eviction constitutes a gross violation of human rights, in particular the right to adequate housing," and "urges governments to undertake immediate measures, at all levels, aimed at eliminating the practice of forced eviction." International principles also reaffirm the right to remedy and reparations for victims of gross violations of human rights.

The human right to adequate housing, derived from the right to an adequate standard of living, is of central importance for the enjoyment of all economic, social and cultural rights and the Committee on Economic, Social and Cultural Rights (CESCR) which oversees the implementation of the Covenant, has repeatedly stated that it is also inseparable from many civil and political rights, such as the right to security of the person, the right to noninterference with privacy, family and home and the right to the peaceful enjoyment of possessions. As defined in General Comment No. 4, the seven basic elements that make up the right to housing are the legal security of tenure, the availability of services, materials, facilities and infrastructure, sustainable expenditures, habitability, affordability, and cultural adequacy. It also states that the right to housing should not be interpreted in a strict and restrictive sense. On the contrary, it should be understood as the right to live somewhere in security, peace and dignity.

The CESCR considers that cases of forced evictions are prima facie incompatible with the requirements of the International Covenant and can only be justified in the most exceptional circumstances and in accordance with the relevant principles of international law. The application of economic, social and cultural rights must be carried out with the guarantee of states towards the guiding principles of human rights: self-determination, non-discrimination, gender equality, rule of law, maximum resources, progressive realization (non-retrogression) and international cooperation. Policies and practices of the state should not benefit already favored social groups to the detriment of others, but always prioritize disadvantaged groups such as the poor. At the governance level, international treaties require states to adopt coordination measures among the various spheres of public authorities, including local and regional authorities and governments, to reconcile their policies and guarantee the right to adequate housing. In this context, Argentina is violating the right to adequate housing of the affected people and, at the same time, with forced evictions, is committing a serious violation of human rights.

### **Recommendations**

- Establish an immediate moratorium to all evictions until the principles and international human rights law are met;
- Repeal laws and decrees that do not comply with appropriate procedural protection and due process derived from international human rights standards concerning forced evictions and housing rights;

- Ensure that all people forcibly evicted have adequate alternative housing and an effective remedy, including access to justice, which may include compensation, rehabilitation, satisfaction and guarantees of non-repetition;
- Change existing legislation and practice to include and effectively protect the right to adequate housing;
- Promote a forum or platform where the Government of Argentina or the Government of the Autonomous City of Buenos Aires and all interested parties, including communities of residents of La Boca and their representatives, social networks, Civil society, relevant United Nations agencies and public bodies, to consult, discuss and agree on alternatives to evictions consistent with the needs of affected communities and international law.

### **Your Action!**

Please write to the authorities of Argentina, urging them to comply with the following recommendations to respect human rights, as they are required under international law and their own constitution.

You can either send the sample letter directly to the authorities or send it automatically via the "Support" option on the HLRN website: <http://www.hlrn.org/cases.php>

For more information, please contact us at [hlrn@hlrn.org](mailto:hlrn@hlrn.org)

### **Address your letter to the following authorities:**

#### **President of Argentina**

Sr. Mauricio Macri Blanco

[mauriciomacri@argentina.gob.ar](mailto:mauriciomacri@argentina.gob.ar)

#### **Governor of the Province of Buenos Aires**

Lic. María Eugenia Vidal

[mevidal@gba.gob.ar](mailto:mevidal@gba.gob.ar)

#### **Chief of the Government of the Autonomous City of Buenos Aires**

Sr. Horacio Rodríguez Larreta

[hlarreta@buenosaires.gob.ar](mailto:hlarreta@buenosaires.gob.ar)

#### **Minister of Interior, Public Works and Housing**

Lic. Rogelio Frigerio Nieto

[jefaturadegabinete@mininterior.gob.ar](mailto:jefaturadegabinete@mininterior.gob.ar);

[ssduyv@mininterior.gov.ar](mailto:ssduyv@mininterior.gov.ar)

#### **President of the Housing Institute of the Autonomous City of Buenos Aires**

Ing. Roberto Apelbaum

[vivienda@buenosaires.gob.ar](mailto:vivienda@buenosaires.gob.ar)

### **[sample letter]**

Your Excellency ....:

The over-350 Member organizations of Habitat International Coalition and its Housing and Land Rights Network, in over 80 countries, oppose the exclusion of the poor and the creation of needless deprivation and deepening poverty through forced evictions. Instead, we promote the many civil alternatives to such conduct, as developed in the norms of international law upholding human rights, in particular the human right to adequate housing and the corresponding obligations of the State.

Since the approval of Law No. 4,353 of the Arts District by the Autonomous City of Buenos Aires in 2012 evictions in the neighborhood of La Boca have multiplied, generating in 2016 the expulsion of

1,106 citizens and putting in risk of forced eviction more than 300 families more in 2017. The Law of the district of the arts and other public policies have favored an exclusive and predatory development, resulting in the displacement of the inhabitants of La Boca through evictions or gentrification processes. Although the difficulty of accessing decent housing is one of the main problems affecting the neighborhood and forced evictions and housing precariousness are part of the daily life of its inhabitants, the authorities prioritize property rights over the right to adequate housing. In addition, these eviction processes - immediate vacancy and administrative eviction - contravene the appropriate procedural protection and due process established by international human rights bodies, to which Argentina is bound by the International Covenant on Economic, Social and Cultural Rights. The housing rights obligations include the obligation of genuine consultation with those affected, adequate and reasonable notice prior to the scheduled date of eviction and provision of information, legal remedies and, where possible, of legal aid.

The human right to adequate housing, derived from the right to an adequate standard of living, is of central importance for the enjoyment of all economic, social and cultural rights, and is also inseparable from many civil and political rights, such as right to life, the right to personal security, the right to non-interference in private life, family and home, and the right to the peaceful enjoyment of possessions. The cases of forced evictions are prima facie incompatible with the requirements of the International Covenant and can only be justified in the most exceptional circumstances and in accordance with the relevant principles of international law and appropriate procedural protection and due process. For these reasons we recommend the Argentinian authorities to:

- Establish an immediate moratorium to all evictions until the principles and international human rights law are met;
- Repeal laws and decrees that do not comply with appropriate procedural protection and due process derived from international human rights standards concerning forced evictions and housing rights;
- Ensure that all people forcibly evicted have adequate alternative housing and an effective remedy, including access to justice, which may include compensation, rehabilitation, satisfaction and guarantees of non-repetition;
- Change existing legislation and practice to include and effectively protect the right to adequate housing;
- Promote a forum or platform where the Government of Argentina or the Government of the Autonomous City of Buenos Aires and all interested parties, including communities of residents of La Boca and their representatives, social networks, Civil society, relevant United Nations agencies and public bodies, to consult, discuss and agree on alternatives to evictions consistent with the needs of affected communities and international law.

We invite you and your relevant departments and offices to apply the principles and international human rights law and the corresponding standards of public service conduct. We will be attentive to the news of your efforts to eliminate forced evictions of the practices and public policies and to apply reparation principles to those already affected by the forced evictions of La Boca.

Sincerely,

[*Your name*]

[*Your organization*]