A photograph of a makeshift shack or tent. The structure is made of a wooden frame with a white plastic sheet on the roof. The walls are covered with a large, colorful tapestry featuring a peacock and floral patterns. A checkered cushion is placed on the ground in front of the entrance. The shack is situated on a patch of dirt and debris, with overgrown vegetation and a cloudy sky in the background.

National Consensus for Decent Habitat

National Consensus for Decent Habitat

Difficulties in the way of access to decent habitat seriously affect broad sectors of our country's population, particularly those of middle and lower income, in addition to disproportionately impacting women, children and persons with disabilities.

Decent habitat means universal access to land, housing, basic infrastructure, social facilities, services and spaces for work and production in a framework of respect for each community's cultural and symbolic assets and for environmental conservation, according to the particularities of urban and rural settings.

However, exclusionary market mechanisms have historically been used to resolve the problem of territorial development in Argentina.

In rural areas, the lack of agrarian reform (attempted unsuccessfully since the 1940s), the expansion of the agro-industrial model of exploitation, and abuses by large landowners increase the marginalization of rural and indigenous communities' traditional ways of life and production. The different expressions of extractivist logic have caused environmental degradation, poverty and the forced displacement of rural families to urban peripheries.

The urban real estate market is in a constant state of speculation, which systematically and artificially raises property prices and drives an ongoing process of segregation. This context breeds more land occupations, precarious settlements and inequality. At the same time, housing policy in Argentina has invariably focused on providing units located mostly in areas that are isolated from existing facilities and are of poor urban and environmental quality.

In light of this situation, policies aimed at achieving decent habitat for all sectors should be an inextricable part of any just development model. This means advancing toward innovative strategies that combine economic and human development, human rights and respect for the environment.

Moreover, these strategies should be enhanced with creative participation and organized activism by all, but particularly by those people subject to vulnerability and discrimination in cities and rural areas. A non-discriminatory decent habitat policy is, above all, a human rights policy.

The National Consensus for Decent Habitat reflects the position of member organizations of the multi-sectoral collective *Habitar Argentina* with regard to the analysis of problems and proposed solutions. Both were produced on the basis of two vectors:

- a. Putting a rights-based approach into practice in habitat policies.
- b. Addressing the specific problems of rural and urban habitat without losing sight of the inter-relationships and continuums linking them.

Today it is imperative that we promote profound transformations in the factors that determine inequalities, while also designing innovative, diversified responses. For this reason, the National Consensus for Decent Habitat proposes a broad, critical debate along with the implementation of the following ten policies and strategies aimed at guaranteeing the right to adequate urban and rural habitat in Argentina.

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The National Consensus for Decent
Habitat proposes a broad debate and the
implementation of policies and strategies
to guarantee the right to adequate urban
and rural habitat in Argentina. Supporters
can sign on to the initiative at the website:
www.consensohabitar.org.ar.

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1

- DESIGN AND IMPLEMENTATION OF COMPREHENSIVE LAND POLICIES -

The land policies in place in most of Argentina's provinces and cities are fragmented, highly technocratic and divorced both from the social structure that they aim to serve and the real socio-spatial processes they should be managing.

Housing policies should be coordinated with land management and environmental protection policies based on a comprehensive view of problems and action strategies. Guaranteeing the effective defense of collective rights and interests requires modifying the traditional approach whereby public action is dissociated from the functioning of real estate markets. The only way to resolve territorial problems is by addressing the complexity of their components in a comprehensive fashion. This includes incorporating multiple variables, primary among which is a gender-focus in the design and execution of housing policies, programs and projects.

The instruments and public policies for urban and rural land regulation should incorporate and put into practice the principle of the social function of property (enshrined in the Argentine Constitution of 1949 and the 1994 reform), so as to modify the traditional regulatory framework founded on the basis of individual rights, which stands in the way of developing inclusive habitat policies. Likewise, the right to communal property should be made effective for rural individuals and communities and indigenous peoples in the physical space where they develop their systems of life, as defined in the "Declaration on the Rights of Peasants" under discussion at the United Nations.

The regulations approved and the instruments designed and implemented should recognize the specific aspects of peasant and indigenous peoples' territory: the forests, rivers, flora and fauna with which these communities coexist and live off of. This territory is not limited to surveyed land, but rather is defined by a complex cultural fabric that encompasses the history, toponymy, traditions and elements of identity that determine the diverse modalities of living and make the place what it is.

2

PUBLIC POLICIES ON LAND REGULATION AND REDISTRIBUTION OF REAL ESTATE PROFITS

The land market operates via mechanisms that produce urban and rural territories that are economically unequal, socially exclusionary, spatially segregated and environmentally unsustainable. Nevertheless, land policies continue to structure decisions and regulations from a perspective that naturalizes the logic of speculation.

The last census revealed that in 2010 there were around 750,000 unoccupied and speculative housing units in the country, 40% of which were located in the city of Buenos Aires, greater Buenos Aires, Rosario and Córdoba. However, there are no policies in place to combat this serious problem. Furthermore, the advancing urbanization (generally of the low-density, high-appraisal type such as private gated communities) in territories once used for regional production contributes to reducing productive surface area in peri-urban and suburban sectors, displacing rural workers and their families.

In order to impact the functioning of land markets, promote sustainable and just use of this resource, reduce prices, expand the supply of urbanized lands for the whole of society, and equally distribute the costs and benefits, policies based on equity and sustainability must be put into practice. This necessitates the design and implementation of regulations and instruments aimed at reducing speculation, the penalization and progressive taxation of idle real estate (which is not used or truly intended for rental or sale), and the equitable distribution of the costs and benefits of urbanization.

For these reasons, tax policy is a fundamental ally of land policy. Tax policy not only has the capacity to generate the necessary resources for public investment, but it can also induce or discipline behavior by real estate market agents, thus fostering or discouraging certain processes.

Such policies must likewise establish specific mechanisms to provide rural families with access to property through land banks, preferential purchasing of state-owned plots, or other means. These lands must take into account the productive economic unit by region and, in the case of peri-urban families, contemplate spaces suitable for agricultural production and ranching for personal consumption and/or local sale. These measures are fundamental for ensuring food security.

3

REGULATION OF THE RENTAL MARKET

Residential rentals are the type of housing that has grown the most in Argentina in recent years. Nearly 16% of households in the country rent their homes; in large cities the figures range from 25 to 30%. In parallel, a significant number of households cannot access rental property due to the rigid restrictions imposed by the system, further aggravated by the harsh disparities and abusive owner-renter relations in both the formal and informal markets.

This explains, on the one hand, the significant increase in cases of overcrowding or families living together, and on the other, the growing hardship of members of low-income households who only have access to precarious or informal possession.

Social rental housing should be a coordinated part of the country's housing and urban policy and include measures that expand collateral options and facilitate access to them. It should, among other mechanisms, also include a system of social subsidies for non-homeowners with limited resources and a high degree of vulnerability.

In addition, a new, rights-based regulatory framework is needed. This should encompass a set of measures, such as: a) reducing cost increases due to intermediation (commissions and fees); b) eliminating abuses in demands on renters to gain access to housing (personal and property-based collateral) and in the clauses that define parties' responsibilities by shifting liability from owner to renter; c) ensuring adequate habitability of buildings; d) regulating the cost of transactions via reference prices; e) establishing fines or progressive taxes on anyone practicing speculative retention of idle property. In the framework of these measures, committees must be formed to set standard rental prices, like those negotiating the minimum wage and collective bargaining agreements.

4

- POLICIES PROMOTING DIFFERENT FORMS OF SOCIAL PRODUCTION OF HABITAT -

Low-income sectors have historically dealt with restrictions on access to decent habitat by using diverse strategies of self-management (both individual and collective), deriving from practices and knowledge acquired over decades. The depth and vitality of this cultural expertise merits clear support from the state to guarantee its sustainability through instruments that address the specific modes of social production of habitat. This will make it possible to transform rights-based actions into public policies capable of transcending the logic of market production.

In this framework, informal urban and peri-urban settlements constitute a specific type of socio-territorial configuration that the state must recognize and address comprehensively through the coordinated deployment of a set of diverse public policies.

This will require a state-owned-land bank for habitat to ensure that the legitimate tenants have tenure rights for the sale and/or transfer of built property, while the state preserves the real right of domain and regulates the possible land uses. Furthermore, the structural reform of National Law 24.464 on the Federal Housing System must be a priority, in order to establish a new system of interdisciplinary and public financing and technical support to improve urban and rural habitat for families not considered eligible for credit from the formal banking system.

Finally, there must be public subsidies and credit policies that provide rural working families with access to land. In addition, regulations should be in place to ensure that at least 10% of all revenue in each jurisdiction goes toward rural housing programs, especially for family farmers in their places of residence.

5

- SECURITY OF TENURE AND REGULARIZATION OF RURAL AND URBAN LAND -

According to the 2010 Census, approximately 15% of Argentine households live in informal housing units. In this context, the densification of slums and the occupation of housing units and land – far from diminishing – continue despite the multiple forms of institutional violence exercised by governments. According to recent data produced by civil society organizations, there are at least 1,800 informal urban settlements in Argentina, where more than 500,000 families live without the security of tenure or regular basic services.

Informality and insecurity in tenure, both in urban and rural settings, breed rights violations that are also frequently aggravated by violent evictions carried out by illegal networks (involved in activities ranging from drug trafficking to agribusiness) that dispute the territory.

It is essential that broader urban and rural land regularization programs and policies be developed while at the same time guaranteeing secure tenure. This requires, among other things, reducing the timeframes for acquiring possession through statutes of limitations. In provincial settings, the executive branch should facilitate and streamline administrative procedures, and the courts should reduce the length of proceedings and eliminate the obstacles in the way of obtaining favorable rulings on statutes of limitations.

Furthermore, a national law should be passed declaring a housing emergency so as to provide a framework for suspending evictions from family homes and rural lands. It should also bolster national programs for urban and rural regularization and incorporate economic, technical, social and administrative support for the complex process that rural populations and settlements must go through to attain regularization. The law should provide for a national survey of rural land conflicts and guarantee a shortened process for obtaining titles in the name of the traditional property holders, with active participation by communities regarding their ways of life.

It is important that national and international obligations be fulfilled for the adequate protection of indigenous peoples' rights. To achieve this, on the one hand, accelerating the survey of their traditional lands must be prioritized (as stipulated by Law 26.160), a commitment

that requires the strong will of the national and provincial states. In addition, support must be provided for this process of effective titling of indigenous territories, in a way that these peoples consider appropriate. And, thirdly, measures must be implemented in conjunction with indigenous communities to guarantee their rights to prior and informed consent, rights that also serve as tools for protecting their ways of life and traditional modes of production.

6

DEMOCRATIC PROCEDURES IN EVICTIONS AND INVOLUNTARY RELOCATIONS

Eviction operations often give rise to human rights violations due to the actions of security forces as well as the level of exposure of the people involved. For these reasons, mechanisms should be included in the Argentine Code of Civil and Commercial Procedure that put into practice the contents of General Comment No. 7 of the UN Committee on Economic, Social and Cultural Rights. Specifically:

- » Prior hearings with local government to reach a consensual solution regarding group evictions.
- » Social assessment prior to issuing an eviction order to verify whether evictees are able to provide themselves with alternative housing. The right to non-self-incrimination and non-discrimination as possible beneficiaries of social and housing plans must be preserved.
- » Judge's obligation to inform those affected of the date and time of the eviction and to be present at the site to verify compliance with the order and respect for human rights.
- » Guarantee the right to an effective defense.
- » When evictees are not in a position to provide themselves with housing, the judge must summon the national and local government to provide an alternative housing solution and suspend the eviction until compliance with this measure is certified in the case file.
- » Modify Articles 680 bis and 684 bis of the Argentine Code of Civil and Commercial Procedure to guarantee the due legal process.

» Reform Article 181 of the Criminal Code to prevent it from being used to criminalize homeless persons, and repeal Article 238 bis (advance restitution of real estate property in criminal court).

» Modify Article 6 of Law 26.589 to establish mandatory mediation in eviction cases.

The principles and policies regarding political stewardship and regulation of police action in scenarios involving crowds, such as protests and demonstrations, should likewise be applied, with specificities, in eviction situations. Operations should be aimed at guaranteeing the safety of all persons and the conditions for political handling of the problems underlying the conflict.

Finally, it is imperative that the national state and provinces have protocols in place that establish minimum standards and democratic procedures in cases of relocation of families forced to abandon their place of residence for reasons beyond their control.

7

- CITIZEN SECURITY AND ACCESS TO JUSTICE -

The reduction of violence, the predictability of daily life and freedom of movement are basic conditions for decent habitat. In Argentina, security policies contribute to creating an exclusionary habitat that places punitive focus on the inhabitants of poor neighborhoods and rural populations, failing to provide them with security.

The areas with the worst housing conditions are where police abuse is most concentrated and where diverse forms of violence are suffered the most. Security mechanisms such as checkpoints pose material and symbolic obstacles that limit circulation and obstruct access to goods and services, which are unequally distributed in the city.

The following, among other initiatives, are required:

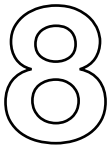
» Security policies based on territorial deployment must be designed to provide security to area residents and must be coordinated with other public policies to strengthen social inclusion.

» Police officers must be trained for proximity work in interaction with the community and to recognize residents as citizens.

» Governance and political oversight of police work must be exercised in communities where abuses are typically concentrated.

» Regulations that enable opportunities for abuse of police power in public spaces must be modified.

Habitat programs should include the creation of space for community participation in the design, implementation and oversight of public security policies and the prevention of crime and violence. Likewise, the territorial work carried out by organizations devoted to guaranteeing at-risk sectors' access to justice should be strengthened.



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**PARTICIPATION
AND ACCESS TO
INFORMATION**
-

Democratic land management is a decision-making process that must ensure active and leading participation by citizens and, in particular, by civil society organizations and associations that form part of the social fabric.

Communities have the right to participate in the different stages of design, implementation and oversight of habitat policies and to demand compliance with the law, by taking action and exercising rights before administrative and judicial bodies. Participation fosters a process of putting down roots in the territory as residents strengthen their identity and sense of belonging and gain appreciation for their surroundings.

In order to guarantee this, it must be mandatory for public bodies to use adequate tools (such as official multi-actor forums, joint workshops, debates, hearings and public consultations) so as to eliminate the asymmetries in different social groups' capacity to participate. In addition, full access to all necessary information must be ensured.

9

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**UNIVERSAL
ACCESS TO
BASIC SERVICES
AND SOCIAL
INFRASTRUCTURE**
-

Land development processes in Argentina have historically been marked by their structural incapacity to universally produce basic infrastructure and facilities for all social sectors. This has been notable at times of rapid physical and demographic growth that widened the gaps between supply and demand for services and increased shortfalls, especially among the lowest-income sectors and excluded groups such as disabled persons.

The construction and expansion of infrastructure grids, facilities and services, including public spaces and transportation facilities and networks, is a primary state responsibility to the extent that they are a fundamental tool for: a) improving the quality of life of the population; b) promoting social inclusion; c) protecting the environment; d) contributing to disaster risk-reduction; e) densifying urban areas to reduce the dynamics of predatory expansion; and f) improving general production conditions for small producers.

In light of this situation, it is essential that the different levels of state take an active role through diverse policies, particularly through significant investment in public works with high impact on the socio-territorial structure of the provinces, in both cities and rural areas. The expansion and provision of public services cannot be subject to policies of economic austerity and must be provided at affordable rates for the entire population.

10

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**CREDIT POLICY FOR
ALL SOCIAL SECTORS**
-

From its beginnings, social housing production in Argentina has worked in two main ways: the construction of housing complexes with finished, turnkey standardized units, promoted by business chambers, and the launch of home mortgage loans promoted by financial entities.

At different times in history, credit has been an important tool but only for sectors with savings capacity and formal employment. In settings of job insecurity and precariousness, credit policy has a very limited field of action since vast sectors of the population are not eligible for loans. Furthermore, the existing asymmetries of information between the formal financial system and

middle-income or working-class sectors – on top of the lack of trust shown toward this latter group – reduce the possibilities of loan expansion. In this sense, credit should be considered a valuable complementary resource to other public policy tools, but never their principal instrument.

A robust mortgage policy should be updated with salary adjustments in mind and coordinated with housing construction incentives. It should also include measures for state intervention in real estate markets, since evidence shows that stimulating demand through credit generates expectations and speculative behavior in market agents that artificially increase prices, hurting those most in need.



