Everyday Water Struggles in Buenos Aires:
The Problem of Land Tenure in the Expansion of Potable Water and Sanitation Service to Informal Settlements

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1. Introduction

Joveli, Elisa and Cristina are women from three informal settlements in the Greater Buenos Aires and Greater La Plata Area. This area can be visualised as a continuous urban and sub-urban area of three rings extending from the City of Zarate down to La Plata, some 100 kilometers across, facing the river. At the centre of the rings is the city of Buenos Aires, the federal capital. Elisa lives in San Fernando, which is in the north of Buenos Aires. Joveli lives in Moreno, the westernmost municipality in the second ring. Cristina is in La Plata, at the end of the conurbation on the southeast. The stories of these three women, and the communities where they come from, reveal much about the drama and 'everyday struggles' over land and access to services by poor people in unplanned, informal and illegal settlements.

Joveli, Elisa and Cristina have led nearly parallel lives. They all live with their children in these informal neighbourhoods settled mostly by poor migrants in constant search of employment while living in precarious, unhealthy conditions. All three have had difficult lives marked by poverty and insecurity, that have been made even worse by the treatment they get as women. Yet, these three have emerged as able local leaders, and are intensely proud of being women. Joveli, for instance, refuses to be called a "single mother" because she insists that she is, as with the two others, a '*madre jefa de familia*' (mother head of the household). Their community involvement developed perhaps because they *are* women – they are both mothers and *jefas de familia* who suffer most from the lack of services. Joveli, Elisa and Cristina's neighbourhoods are struggling to legalise land tenure and obtain water and sanitation infrastructure. San Fernando is covered by the concession of Aguas Argentinas; Moreno by Aguas del Gran Buenos Aires (AGBA); and La Plata by Azurix.

Joveli ran away from home in the south of Chile when she was 16 and lived as a domestic servant for many years. She soon met a man, who was arrested at various times by the Pinochet dictatorship, prompting them to move to the slums of Buenos Aires in 1980 with a seven-month old baby girl in tow. She had two daughters with this man, who abandoned them when the girls were a bit older, taking with him all that they had saved. With a bag of clothes, Joveli slept in the open with her two daughters at the Plaza de Palermo for 15 days, until she was able to gather enough money to rent a small room. From that moment on, her life has been a struggle to have a house and bring up her kids in a foreign country where she continues to remain undocumented.

Elisa was the third of five siblings in a family that moved to San Fernando in 1969 when she was 8 years old. Her father left them shortly afterwards, leaving her to grow up with two abusive older brothers who beat her up regularly. One brother once tried to abuse her younger sister. Elisa became a mother at 16, and had three children. In 1986, Elisa and her family moved to more comfortable conditions as her husband was given housing in his job as a night watchman at a hangar at Barrio Aviacion. But this job lasted only until 1989, and rather than go back to her mother's house, they ended up occupying a piece of land in San Martin that could not be sold because it was lower than the road by two meters, had no

access to water and electricity, and which was a virtual cesspool with ants and rats. They lived with 67 mostly illiterate families in this area, who have become wary of strangers who have deceived them many times before.

Cristina, in contrast, has had better education and initially was better off than Joveli and Elisa. Now 29 years old, Cristina was two years old when her father abandoned the family. She studied and has a vocational degree, but grew up having problems with her mother. As she was turning 18, her mother wanted to put her in juvenile detention. Faced with a choice of going back home or being put under the Judge's supervision, she instead eloped with the bus driver on route 561 that she came to know while she commuted to and from work. At 21, she had her first child. They invested in a pick-up truck, doing business by transporting vegetables to Beccar market. But bad luck followed them. The friend who drove the truck ran away with the instalments, and the vehicle had to be repossessed. Then, a man who was supposed to arrange for employment cheated them instead, and as a result, they had to give up the small house lent to them and move in with Cristina's mother. Cristina and family ended up settling into a small piece of plot that they put in a downpayment for. It had none of the essential services the private developer said it had. For 15 months they lived in this plot only under a tent – the most they could afford.

By force of circumstance, these three women ended up living in what can be termed as the 'poorest of the poor' communities. But they have decided to stay put, and make the most of life in what they have come to know as their 'home'. They are now in the forefront of efforts to have the neighbourhoods regularised and are negotiating the sanitation service and the social tariff.

In general, in order to access water and sanitation services, potential users must live in a registered and identifiable building – that is, that the area has been registered as real estate with approved property surveys. The neighbourhoods they live in are often called 'mushrooms' that have sprouted out of nowhere – hence they are mostly unregistered and have no fixed addresses. These neighbourhoods do not exist, as far as city plans and surveys are concerned. One requirement for legalising or regularising these settlements is to have access to water and sanitation. But since they do not exist in theory, they do not have the legal personality to access and demand services, even if according to judicial order every Argentine citizen has a right to dignified housing, and even when the concession contracts awarded to the three companies provide for the connection of all inhabitants within the concession to water and sanitation systems. Private sector companies cite the lack of land ownership as the main reason why services have not been expanded to these poor settlements. Being an illegal occupant presents a nearly endless series of administrative and technical barriers to access services.

But what makes the experience of Joveli, Elisa, Cristina invaluable is how the 'extra-legal' sector they have come to represent developed its own institutionalised mechanisms for obtaining land and services. There are many barriers, but as their stories would show, these can be circumvented by sustained citizen action and if they would receive at least a sympathetic hearing from the concerned authorities. The informal sector constitutes a large part of Buenos Aires' poor, and this is where the most urgent demands come forth. This sector is the most in need, where the most degraded urban areas are found, and where environmental and health risks are highest. Usually, these are settlements that originate from the occupation of municipal or private land, grouped in a form that does not adhere to the structure of formal lot arrangement. There is intense overcrowding, the majority of housing is precarious. The lots tend to have a smaller area than the minimum allowed, and accessibility is difficult. There are also complex right-of-way problems, making water and sanitation provision almost impracticable. Yet there are spaces, though extremely limited, within certain land legislation providing for the creation and regularization of formal land, and provisions in

the concession contracts that the poor communities can take advantage of to improve the quality of their lives.

The key is to be able to gain legal tenancy for the occupants of illegal and informal settlements. The challenges faced in order to achieve a dignified home is best exemplified by a family in the poster made by the United Nations for the International Year of Homelessness (Sin Techo, 1987): “The Ramirez family finally achieved their desire to have a conventional house with basic services in a legal settlement. But before achieving this they squatted in a room, and afterwards when they began to build their own house in a squatter settlement they were evicted by the police. For a period they had to return to a room in an apartment building occupied by squatters until they finally participated in an illegal land occupation that successfully resisted eviction and achieved legal tenancy for the occupants.” Like the Ramirez family, Joveli, Elisa and Cristina’s stories are about the struggle for achieving legal tenancy, and the struggle to obtain services.

The following case study is an examination and analysis of the following issues:

- How existing technical/administrative instruments complicate access to public services for informal sectors;
- How land legislation lacks methods for regularising urban land occupied by the informal sector;
- How the absence of comprehensive land management planning favours the fragmentation of an urban land regularization policy; and
- How social capital accumulated by informal sectors over many years manages to overcome this adverse context.

The methodology used for this case study is to first look in detail at the life stories of Joveli, Elisa and Cristina, who have agreed to share the details of their lives, both the painful as well as happier memories that provide lessons to the more educated. Their experiences are then evaluated against urban land and regularization laws, and against the concession contracts for potable water and sanitation services of the three private water utilities – Aguas Argentinas, AGBA, and Azurix.

What emerges from this study are a number of conclusions that are crucial in understanding how water and sanitation services can be most effectively delivered to the poorest urban communities.

First, there appears an urgent need to change to overall frame of addressing the problems of the informal sector. This frame is characterised by:

- *An exclusively economic vision of the provision of services.* Not only the concessionaires, but also the regulatory bodies evaluate the problems primarily in economic and financial terms. Hence, it was only after intense public pressure that the idea of social tariff has progressed in the last few years. No similar progress has been achieved towards including the illegal sector in formal access of services.
- *A fragmented institutional frame.* Within each and every level of government, including the regulators, there is duplication of functions in planning, land use regulation and provision of services. The result is fragmented, sometimes conflicting response on the part of public authorities in dealing with the issues.
- A limited vision of the role which civil society organisation can play. The government and the utilities generally consider civil society organisation as ‘secondary’. On one hand, the government considers them as mere recipients of political decisions. On the other, utilities see them as mere arms – voluntary organisations that are expected to assist and participate in the delivery of services. Civil society organisations,

especially those that work at the grassroots, are generally not considered as possible participants in the planning and design of expansion, neither in the regulatory agency, nor in the user commissions. This results in failure to make full use of their potentials.

Secondly, this study argues that the lack of land tenure or physical/technical problems are *not* insurmountable impediments to the provision of services. Legal mechanisms are, after all, only a function of social and political agreements. The lack of land tenure becomes a legal impediment only when there is a lack of political commitment to deliver the services to the poorest communities, and to deal decisively with the complex problem of illegal settlements. As the experiences of the three poor women from Buenos Aires' slums reveal, the various means of constructing different strategies for accessing goods and services are generally conditioned more by political action and practices rather than by direct legislation.

There are clear physical and technical problems associated with the delivery of services to informal settlements. Location – or the distance between informal settlements and existing pipe networks – is a key physical problem. In cases where pipe networks are close by, the irregular layout of houses presents another set of problems. There are also issues related to the cost of construction in zones below the water table restriction. Finally in urban poor areas, there is also lack of confidence that costs can be recuperated and services will be paid. These are reasons most cited by utilities for denying the majority of requests for sanitation services.

Closer interaction with the communities would reveal that these physical and technical problems are not as difficult to deal with as often projected. Network expansion after the award of the concession contracts is considerably reducing distances between served zones and informal settlements. What appears as more of a problem is whether the informal zones will be prioritised in the expansion. A large majority of the settlements also have a structure of blocks and lots that, while not traditional, does follow its own pattern. Given the chance of designing pipe networks and lay-outs, communities can provide efficient and practicable designs. The poor communities have also shown willingness to contribute to the reduction of costs – and it has been shown that the costs of construction in poor settlements is less than in neighbourhoods where work is done in the conventional manner. And furthermore, the so-called culture of "non-payment for services" is in reality historically associated with "non-provision of services." Given the refusal of the public utilities to provide services to informal settlements, these populations simply connected themselves, especially in the case of electricity.

A third consideration is that specific regulations are needed for informal settlements. For instance, informal settlements are not able to meet subdivision and land regularization standards. Only plots that are 300 square meters or more, have at least 12 meters facing and having direct access to circulating streets, are on level ground above 3.75 meters and have complete infrastructure can be considered as legitimate real estate. Plots in informal settlements are between strips of 100 to 200 square meters, majority has indirect access to circulating streets, they are in land below the quota and generally always have deficiencies in electricity, gas, water, sanitation or drainage. Despite these, many informal settlements are still being regularized through the discretion of political authorities. Having specific regulations will stabilise and provide clearer rules for decision-making.

The invoicing and charging of service by the concessionaires also works against the informal settlements, though the experience demonstrated it has not been an impediment. This requires the identification of the name and address of the user, date of issue of the address, and location of the real estate, including certificates of registered property. Property identification in informal settlements is generally done through particular agreements between neighbourhood organisations and local governments, and leaves many of the property unregistered. Furthermore, such invoicing and charging presumes that there is

general access to information, and that people are in appropriate and stabilised living conditions. Many informal settlers do not even know that private companies exist for the provision of services, have no access to public authorities in charge of resolving tenancy issues, are unaware of such things as ‘legal rights’ and are barely able to read and fill out forms, much less understand the technical terms enshrined in these forms.

But what is more important to take note of at this point is the growing power over urban growth in the hands of the private water and sanitation companies. As will be shown in a subsequent section, an unintended consequence of private sector participation is that the water and sanitation companies who decide on and develop service expansion plans in the city can now determine to a large extent how the city will grow, which properties can be more valuable, or whether poor informal settlements will at all be regularized.

The question is how to close the gaps that can be so wide between what the formal theory and regulations demand and what is possible for the informal practice to offer. The objective is how to include the excluded in urban regulation. What this study argues for is the development of a more integrated urban development policy. This is a policy that will evaluate problems not only in their economic and financial sense but more fundamentally look at the social and political factors. This policy also calls for improved co-ordination between provinces and municipalities, between regulatory instruments for land and for services provision, and between budgets to ensure appropriate implementation. This policy must consider a process by which the extra-legal city can be gradually incorporated into the means and standards considered as appropriate for the formal city.

The following sections will describe how we have come across these foregoing conclusions. We will first present a summary of the relevant experiences in the life stories of Joveli, Elisa and Cristina. We will then examine the relevant laws on urban land and regularization. Next, we look at the concession contracts. Finally, we enumerate our more detailed findings and analysis, and re-state our conclusions to demonstrate how the everyday water struggles in Buenos Aires’ informal settlements inform the understanding of the land tenure problem in the provision of potable water and adequate sanitation to the poorest urban communities.

2. Life in the Barrios of Buenos Aires

The stench is one of the first 'greetings' a visitor gets in Barrio San Martin. The barrio grew out of the banks of the Reconquista River where upstream lies the slaughterhouse and meat packing factory of Cocarsa. As a result, slaughterhouse refuse mix with the usual household sewage and solid wastes dumped into the river. The river's banks are literally littered household wastes, discarded material from the slaughter house, old cars and appliances. The stench is one clear indicator of the health, sanitation and pollution problems that engulf not only Barrio San Martin, but many of the other illegal settlements of Buenos Aires as well.

Barrio San Martin is located to the west of the municipality of San Fernando, which is some 35 kilomoters northwest of the city of Buenos Aires. There are 279 structures housing close to 400 families on this land that has been disputed for many years by a private owner, the municipality of San Fernando, and Cocarsa. The barrio is divided into an old and new sector. The *old* sector is an ex-Cocarsa site that started in the early 70s and where some 200 families live. It has grown accustomed to the usually stagnant river water that has a brownish-black colour and which overflows frequently during the rainy season. The quality of houses is very poor. On the other hand, the *new* sector started to be settled in 1990 and is located in a better area that the families had filled and where the houses are of much better quality. The community organised a neighbourhood organisation called Junta Vecinal (neighbourhood council) and is led by Elisa. They are lobbying the municipal government while resisting the pressures from Cocarsa (which is claiming the land as well) to legalise their occupation of the land.

Barrio Jardines Uno is located in Moreno, a municipality to the west of Greater Buenos Aires, some 45 kilometers from the capital. The barrio was the creation of an agreement between a group of madres jefas de familia, the church-based Center for Social Action (CEAS), and the municipal government. The land was bought by CEAS and donated to the municipality. Houses were built on 100 plots through a provincial program of self-help building called Pro-Casa. CEAS selected 45 beneficiaries – all 'single mothers' – while the local government selected the 55 other families. The plots are regular, with an area of 250 square meters each. The whole area has a total of 113 plots. On the 13 plots without houses, the community has now allowed transient homeless families to live on temporary boxes built from scrap and other materials. The 100 house owners have been paying the municipality 30 pesos (US$ 10) each month for the plots for the past 10 years. They are expecting the land titles to be turned over to them on the 12th or 13th year, if election promises are to be believed. While having greater land security than San Martin, Jardines Uno equally suffers from the lack and irregularity of services.

Some 100 kilometers across to the southeast is Barrio Villa Zelmira, located in Grand La Plata which is the capital of the Province of Buenos Aires. The barrio is some 10 kilometers away from La Plata town proper and some 50 kilometers from Buenos Aires city proper. The barrio is inhabited by 300 families settled in 256 regular lots with an average size of 150 square meters. A real estate agent initially developed the area. The neighbours are paying the land in instalments, and their titles will be regularised once they have finished the repayments. There are wider roads (although unpaved) crisscrossed by plastic water pipes that connect to mains installed by the private water company after intense lobbying by the community. But sanitation remains a big problem. Raw sewage flow into open ditches by the roadside, and the main access road to the barrio has been flooded many times this year.

The Struggles of San Martin

Struggling to access services is a distinctive experience of life in the barrios. Elisa relates the stress of nearly 20 years of having to fight with Cocarsa on one hand (the meat packing

company claiming the land they were living on) and politicians in the municipal government on the other. According to Elisa, Cocarsa wanted the land so it can move its meat market to that site, and avoid paying the big rent on the other site they were located. In 1988 just before Elisa moved in, families living at the site were told that the land belonged to Cocarsa, and would be allowed to live there as long as they filled the land (it was two meters below the road level). Cocarsa had filled a section of the property, constructed homes for some of its workers, and provided them with water from a public faucet that generally worked two hours per day on a variable schedule. In exchange, the company expected inhabitants not to report the company´s violations of environmental standards. But as employees were laid off, they get kicked off the land, which was then fenced off and padlocked. Cocarsa, in exchange for allowing the families to occupy free land, forced them to make improvements -- like 'human bulldozers' who develop raw urban land. When Elisa came in, she vowed to put a stop to these practices and became one of Cocarsa's biggest headache.

Elisa remembers crying many times at the depressing living conditions they faced. Initially, she and her family were bullied by one resident who wanted to throw them out. She would cringe at the stench when Cocarsa burned animal refuse from the slaughterhouse. Most children had skin problems and suffered from parasites. To pressure the community to move out, Cocarsa first cut the electricity supply, followed by the water supply. The municipality had an agreement that Cocarsa will deliver these services to adjacent communities around its plant. The neighbourhood just had to bear the burden of living without electricity. They fetched water from across established communities and stored the water them back in their homes in buckets and containers.

Finally, Elisa started asking the municipality how they can get electricity and water. She was formally told that her neighbourhood was a phantom. According to the municipality, San Martin did not exist. So she asked what they needed to do to cease being a phantom community. She was pointed to a public welfare office, where the director rattled of a long list of steps from an official book of statutes. She now recalls that she was given this list because "they saw me as a woman and thought I was useless." She then discussed the list with her neighbours and had three meetings. At the fourth meeting, they established a *junta vecinal* (neighbourhood association). Her husband Juan and another neighbour were elected, and they all went through the process of getting contract forms for the electricity. Having these forms filled by neighbours was not an easy job, as some were sometimes hostile. They had to pay a ticket of 10 pesos a month until the resources were pooled to comply with the requirements. This was particularly difficult, especially the community was used to receiving free electricity. She also had to painstakingly explain that they had to pay because the electricity utility had been privatised, and most of the time had to assure and re-assure the neighbours that she was not in any way connected to the company. She did this talking to neighbours after work as a cook in a senior citizen's centre. After six months, they got recognised and received electricity directly. They also filed a complaint against Cocarsa's action of cutting them off.

Cocarsa responded by paying bribes for people to leave (because it was cheaper). They also decided to pressure their employees, who constitute half the community, to leave or else they lose their jobs. They also tried to isolate Elisa, saying that people who went to her house would be cut off from the intermittent supply of water. At some point, politicians at the municipality tried to influence her by working through her husband. But she threatened to throw him out of the house instead. Then came the inevitable -- putting pressure on Elisa herself. She recalls her first meeting with a retired Colonel Antonio Gonzalez, a representative of Cocarsa, who obviously wanted to intimidate her by rattling off his military credentials. Elisa ended up humiliating the Colonel instead, saying he simply moved from being a killer of humans in the Malvinas (Falklands War) to being a killer of cows in Cocarsa. Elisa got threatening phone calls, and was conscious of the dangers. But she managed these threats creatively. Everytime the community would conduct a mobilisation – either

against Cocarsa or the municipality – she would ensure that the press is around to cover. She also strictly kept a diary of her movements and meetings in a log book. This proved particularly useful in keeping track of promises and agreements arrived in their lobbying of various offices.

Elisa took the lead when the community negotiated with Aguas Argentinas after the company won a concession that covered the municipality of San Fernando. When Cocarsa cut off their water connection, they exploited links they had to one politician who facilitated the daily delivery of water from a truck. But due to work hours, many families could not collect from the water truck. Furthermore, the water truck did not always provide a service because the water was spoiled or because the dirt roads of the settlement made access difficult. As such, they wanted regular connections, and soon stepped up the pressure on the municipality and company. They were generally ignored because after all, they were poor residents from a phantom community that the company doubted had the ability to pay. Finally at one encounter at the stairwell of the municipal hall, an Aguas Argentina representative shouted at them saying "you don't know the value that each drop of water has, and the cost that it signifies to the company!" Elisa shot back, saying calmly, "We do not want you to give it to us for free, we want you to sell us the service, we want water because without it we can not live."

It became apparent later on that the company regarded that maintaining a service for a total of 370 squatter families in the old and new sectors of San Martin was too risky. These families could not offer them a guarantee that a deed to the land provides. What could replace the security of a deed, however, is for the municipal government to act as a guarantor who would pay in case residents fail to. But there were ingrained biases against squatters in the local government bureaucracy. They think of squatters as opportunistic freeloaders who take land that don't belong to them, not pay taxes, and run away without paying electricity, water or gas bills. Elisa realised that it would take a campaign to overcome these limitations and mind sets.

Elisa's Life Story

Elisa is 41, married to Juan since 16, with three children and a granddaughter. She was born in the province of San Juan and moved to San Fernando with her family in 1969 when she was nine.

During the first years of marriage they lived with her mother so that Elisa could continue to take care of her brothers and sisters. Juan worked in a bakery and had other odd jobs. At 28, with three children, they moved into provided accommodations, but had to give this up after three years. With Juan´s severance pay, they looked to buy land, eventually talking to a 'proprietor' who let them settle in a barrio called San Martin, adjacent to the meat packing plant Cocarsa.

In 1992, Elisa and Juan went to the municipality to request public lights and electricity. They formed a neighborhood association. Despite constant pressure from Cocarsa who intended to block Barrio San Martin from organizing and managing itself better, the group was able to achieve the installation of electricity in 1993. But Cocarsa continued, using constant interruptions of water provision to make life difficult in the community. A political struggle began. It brought them into negotiations with various politicians as well as the private company Aguas Argentinas, which won a concession to supply water in San Fernando. This struggle was long and intense, but supported well by the neighborhood. They finally reached an agreement with Aguas Argentinas and the local government in 1997 when they were connected to the water network.

Elisa and her community took pains to show that they do not want to live in such impoverished conditions. "We are also people" she says, "who belong as much to society as others do. We want to improve our conditions, but even if we had all the necessary materials, we still remain impoverished for no other reason than that we do not have titles to property. So I think the really impoverished people are the politicians and the businessmen who don't want to take a risk by giving us the opportunity to stop being impoverished neighbourhoods." Elisa has

asked many government officials repeatedly, “Why don’t you give us the possibility to have our own land? After all, they used to be abandoned land that didn’t pay. So at least let us pay so we can present our titles as a guarantee to be able to have services.”

The campaign took many forms. When cholera epidemics break out, they march straight to the municipality and deplore the contaminated water they get from Cocarsa pipes. They tell the media of the waste that goes into medicines when it can all be prevented by cheaper spending on safe water. They also resorted to opening fire hydrants for their water supply, arguing that if they were given regular service they would be willing to pay rather than steal. When they get a promise from one government official, they negotiate a similar arrangement with another official in order to put pressure on the politicians. They also threatened to bring the municipality to court, arguing that they are settled on public land being claimed by an influential company that the municipality appears to be favouring. A case for eviction filed by Cocarsa has already been thrown out by the court.

Many hurdles still remain for the community. The municipality has agreed in principle to sell those parts that it owns to the community and to expropriate the bits of land that belong to private owners. However, titles will be provided by the state government. Then there will be other laws they have to contend with. The Department of Hyrdraulics for instance, may still not recognise the community because the land is still not above the prescribed elevation of 3.75 meters above sea level. At least for the moment, electricity is now regular. And water supplies have become more regular as well. A main meter was eventually installed, named to the Junta Vecinal. More individual connections are now being installed.

Villa Zelmira – Left on Their Own

After being cheated many times that left her ending up living in a tent for a total 15 months with a small daughter, Cristina and her husband vowed to change and to keep struggling on. While he went to work at odd jobs, Cristina and her little girl put up the irons on which their house would later on be built. After nine months, they eventually built the foundations and walls for their pre-fabricated house, but still lacked the roof. So they put the tent inside and lived this way for a few more months. After struggling so much, they intend to make life better in this neighbourhood they have settled. Most of their neighbours are Bolivians, Paraguayans and Uruguayans who have migrated to Buenos Aires, in search of better employment.

Villa Zelmira is supposedly a subdivided property that a real estate agency set up for low income families. Most of the 254 plots are about 8 X 20 meters in size. There are 50 empty plots, and there are houses with more than one family living under it. Cristina estimates there are at least 300 families in the community. Deeds of sale were executed, and are charged based on the surface a house owner has built. But from thereon, the house owners were left on their own by the developer. As a result, not a few families constructed their cesspools at the back of the plot where others installed their water pumps. By 1999, ground water was so contaminated it reeked of a foul smell. Children were always sick of diarrhea and regularly threw up. They had to buy extremely expensive bottled water. This started the community meetings that led to the creation of a *sociedad de fomento* in order to demand improvements from the authorities. “The streets were terrible,” recalls Cristina, and we wanted running water, we wanted gas, we wanted everything that meant improvement.” At that time, there were only 130 families in Villa Zelmira.

In order to encourage neighbours to participate, they organised a place where they served lunch and a cup of milk for children. Mothers came with their children to take advantage of the milk. They initially had to negotiate with the local government. They thought of setting up a welfare fund, but many people did not join in.

They drew up the formal request addressed to Azurix for piped water to be installed in their barrio, a process facilitated by the local politician. Azurix provided them with all the materials that were needed while the residents provided the labour. Azurix estimated the work to take up to 90 days – but the residents so intensely wanted the water that they finished all the work in 20 days. They worked from early morning till it was dark; even children of the co-operating families pitched in, proud that they were part of building their community. Still there were others who were not moved, families who simply watched the work being done while drinking *mate* (local tea) from their windows.

This lack of enthusiasm from some neighbours baffled Cristina, but she and those who supported her just moved on. But then as their running water supply was about to be started, it turned out that somebody else had built an illegal water line much earlier. This person was a local ward leader of a political party, and was profiting from the sales from this illegal connection. This complicated problems in the documentation that Azurix wanted. Half the community did not want to sign up because they have already signed up with somebody else and which turned out later on to be a membership enrolment for the political party. There were other more valid reasons why residents would not sign up. Azurix had initially told them they will be connected to a 20 cm. mains pipe, as provided for in the contract, but they discovered that the pipe installed was only a 6.3 cm pipe. Also, signing up meant putting out a lot of documents – the sale note of the plot, the deed photocopy, the identification card of the owner, and the receipts on taxes with cadastral identification of the plots. There were also other physical problems – like there were no concrete boxes for the pipe connections in front of houses, no fire hydrants, and holes where the main pipes were laid were left uncovered.

Cristina's Life Story

Cristina, 29, was born in Gonnet, Buenos Aires Province and has 5 brothers. When she was 2, her father left and returned when she was 21
She now lives with the father of her 3 children. She finished high school and has a degree as a master builder. As a young child along with her brothers and mother's second husband, she worked in a vegetable plot while living in a damp 4X4 meter room, and slept on mattresses on the floor. She eventually contracted a lung disease. From age 8 to 13, she was sent to live with her widowed grandmother to recover.

At 13, she went back to her mother and began working as a househelp. It was here when she started secondary school. At 18, she returned to live with her grandmother, because of personal problems with her mother.

Aside from her other community tasks, Cristina now manages a self-help centre where unemployed mothers do small-scale handicraft work. They also collect clothes in the centre. She has also facilitated informal systems for childcare for working mothers.

Today, there exist two water systems in Villa Zelmira – the legal connection which Cristina and some neighbours worked for, and the illegal connection set up by the local political ward leader. Cristina works tirelessly to get more people to switch to the legal connection, explaining that this will increase the value of their plot, that they will get a bill in their name and therefore pay only for what they consume, and so on. But she says it is tiring work, as there will always be critics who will disagree for ludicrous reasons like that the asphalt was broken or the ground sank a little. "They are incapable," she says, "of getting a spade and covering or throwing a bit of soil." Freeloading is a big problem in Cristina's community.

To make problems even worse, Azurix abandoned the concession in 2001. The service in the meantime has been transferred to the responsibility of the provincial government.

Jardines Uno – Building from Scratch

Torn by the harshness of life in the cities she ran away to, Joveli summoned all the courage she had to return to her mother in Chile. But as she painfully recounts, “Mama had a boyfriend, and to not have problems as a couple, she had to tell me ‘no’ – that I could not return.” Shattered by her misfortunes, she vowed to stay on Buenos Aires to bring up her two kids no matter what. But it became nearly impossible to get out of her depression.

She soon came to know a couple who introduced her to bible studies, encouraging her not to cry all the time. “I decided to go with my kids,” she says, “but I did not get along very well with the group because I always like to be presentable with my girls. Despite everything, I never confused poverty with being filthy.” She could not understand why her husband abandoned her, and thought that maybe knowing about Jesus Christ may bring her some answers. One day after crying a lot in Plaza Flores, she decided that if God existed, there must be a mission for her in Argentina. From thereon, she saw how other mothers had problems like hers. In the kindergarten where she brought Karina, she started having talks with ‘single’ mothers about having housing. The group expanded rapidly, with the bond between the mothers forming rapidly. They shared their problems, counselled each other, and most of all, shared a common dream of having a house of their own.

Joveli’s Life Story

Joveli Araleda, 44, was born in a town called Valle in the south of Chile. Her father passed away when she was six, and she lived with her mother and older brother.

Many people she has met, like the 55 married couples who moved in to Jardines Uno or the politicians at the municipal hall, look down on women like her. She tells them, “No, we are not single mothers, nor mothers alone, nor anything like that. We are mothers who are the heads of the household.” She asks them, “Who are the women who educate their children, who work to feed their children and who have their own house? Who are the women who can live and ask for what we have? They always teach us that man feeds the woman. But we are mothers who are heads of households. We don’t need men to do our electrical installations, or anything of that sort. We do it ourselves.”

Joveli has two grown children with the first husband who abandoned her. She eventually had a boyfriend, and had a serious relationship before she moved into her house. In the beginning, she tried to maintain independence. When she was 5 months pregnant with his first child (they had two), she decided that, “he was not going to live with me yet.” She stressed that “I wanted to have my house alone, I wanted to be proud, that I don’t owe anything to anyone, and that I struggled and fought for my house. I also did not want to live with another person telling him, ‘thanks to me you have this house.’” But she later on married this man in her house. It turned out to be another mistake because he soon developed an addiction with drugs. Joveli eventually kicked him out.

Joveli now has an administrative job in an office in San Jose. She lives with her two younger children.

Joveli soon brought the issue of housing to the person running the bible studies. She suggested that the “various churches get together and buy land and sell it to the mothers at instalments they can afford.” This person insisted on prayers, until Joveli found out about the CEAS (Centro Ecumenico de Accion Social or Ecumenical Center for Social Action) which ran a program to assist single pregnant women. Adelina, who was a ward at the center, also had the same idea of housing and Joveli was soon talking to her. As they worked out to put their plans into action, Joveli worked hard to save money for her dream. She cooked in a restaurant from 9 to 3 in the afternoon, cleaned it from 7 pm until late in the evening, and had other odd jobs. Oftentimes, she brought her two girls and made them sleep in the kitchen of the restaurant.

The idea started to take shape. They turned themselves into a housing cooperative that they named *Vamos* (Let’s go), and elected officers. Joveli was the spirit that moved Vamos. They met every Saturday at 4 pm, and chipped in money to hire a sitter to look after the kids.

CEAS meanwhile, did some fundraising. Vamos appealed to some charitable institutions – notably American charities, Swiss and German churches – for support. They also did small fund-raising projects. Another project they did was to put their own newsletter – where the women told a bit of their lives, wrote updates, and published photos of their work in progress. The newsletters were translated into German by a student-intern who volunteered with Vamos. It was sent to Germany and raised more money for the groups. CEAS subsequently informed them that money had arrived to buy land. Joveli scouted for a property that was close to a kindergarten and their places of work. She then did most of the negotiations. The purchase of the land pushed through, which was subdivided into 113 plots with a size of 10x25 meters. The area was named Jardines Uno (Garden 1).

During this time, Joveli was asked to attend a Latin American conference on housing. She came away from that experience deeply impressed by this idea of 'rights'. "I learned," she recounts, "that everyone has a right, that we are born with this right to a piece of land. I gave a lot, a lot of value to this. Now, I know that no one can come to me and say 'you are like this because you are poor', or that 'you are a single mother so you don't have rights.' We can not be marked for being poor. This idea now remains very much with me."

Vamos and Joveli also caught some media attention because of the project they started. She was invited to speak on television, and remembers being criticised by some people for her accent and the way she spoke. She was happy that life was getting better and that their 'collective dreams' are within reach.

But a major problem soon emerged that nearly destroyed these dreams. It turned out that there was no more money for the construction of the houses. It is not exactly clear to Joveli what happened to the money they raised. "The money was administered by CEAS, they kept the money for us. They are from the church and they have given us all the possibilities for having our housing, and I don't know, we just have to trust them, right?" Joveli insists that they had at least US$26,000 raised from overseas, in addition to the sales they made. At one meeting, most of the mothers stormed out in disgust saying that the evangelists were the same as politicians who made promises they did not keep. At that time, about 12 houses have already been built through co-operative effort.

To save the situation and finish the construction of a total of 100 houses, the women later applied with the provincial housing program *Pro-Casa I* that provided the funds for the construction of the houses. But this meant that the government would have a stake, and therefore a stake in the project. The compromise arrived at was that the municipal government would name 55 beneficiaries, while CEAS would name 45 beneficiaries from the list of 120 mothers. Until today Joveli regrets this compromise that was taken, saying it is unjust because of all the effort that the mothers have put in preparing the project. Vamos broke up as a result.

The first 12 houses were the most inexpensive of those built, the other 88 was done by a contractor hired by the municipal government. Joveli finally moved into her house in August 1990, in a way that was not expected. There was a mixture of joy, but pain as well that many other mothers were not given that chance to realise their dream. More than 10 years later, it turns out that the first 12 houses are more durable than the 88 built by the contractor.

CEAS eventually donated the land to the municipality. A housing association was formed in Jardines Uno, but the 55 other beneficiaries did not trust Joveli, being a woman and a single mother. They elected a man who took charge of ensuring that the new community will have access to services. In the end, it was Joveli doing most of the work, new elections were held, and Joveli once became president, but this time of a group larger than her association of *madres jefas de familia.* Over the years as Joveli came to know the other residents of Jardines Uno better, she discovered that they were all supporters or members of a political

party. The grant of housing was based on political favours. “They did not do a selection like what we have done.”

More than 10 years after they moved in to their houses, water and sanitation services to Jardines Uno remain in a dismal state. They still have no sewage, only cesspools in their backyards or wastewater that flows into open drainage ditches by the roadside. They had 10,000-litre water tank that provided for the whole community, but the motor pump often break down and it was difficult to get the municipality to send someone to repair it promptly. The neighbourhood association does most of the work that the municipal government should do. d

Key Insights from the Life Stories

The life stories of Elisa, Cristina and Joveli offer a remarkably clear picture of the gravity as well as variety of problems that the poor face in their everyday struggles to survive and improve their lives. A number of insights may be developed from the three stories:

- Women are most involved in the struggle to access services. Women’s participation is therefore essential. The passion of the three women in their community work stems from their being women, and their perception of the devaluation and discredit given by men to the capacities of a woman to lead the community. The struggle of the three women was aimed not only at improving their neighbourhoods but also at demonstrating that women, mothers and women-headed households could drive the process of community development.

- Poverty is not just about the lack of wealth. There are social, political and gender dimensions to poverty, to name a few. All three women, for instance, suffered the absence of fathers (two had fathers who abandoned the family). Problems on family relations are typical, like Joveli’s rejection by her mother who has found a new boyfriend, Cristina’s fight with her mom, and Elisa’s physical abuse by her elder brothers. Joveli and Elisa were also migrants to the place where they have settled. All three were ridiculed (or considered useless) at some point by people in authority because they were women. All three in their youth lived on ‘everything borrowed.’ All three fell victim to fraud and coercion by their fellow poor. They suffered from discrimination because they are poor.

- Access to water and sanitation is just one among many problems that residents of poor communities have to deal with. Elisa and Cristina experienced floods, overcrowding and precarious living conditions. Joveli had to sleep in an open park with two small daughters after they were abandoned by the husband. Child care responsibilities are always added burdens. Elisa had to contend with threats from powerful people.

- Their settling into houses and settlements originated from personal or group initiatives to populate vacant land. The poor have to live and settle somewhere, and it is through their initiatives that settlements – even though informal – spring up. In a way, it is people like Elisa, Joveli, and Cristina who build up the big cities of developing countries.

- The three women developed into non-partisan community leaders and shares a profound disdain for politicians and community leaders co-opted by political parties. Elisa nearly threw her husband out of the house for his involvement with a politician. Joveli resents how the dreams of her group of *madres jefas de familia* were destroyed by political compromises. Cristina is now seen by the incumbent local councillor as a threat to his position. But despite their criticism of politics, the three

would have not been able to achieve improvements in their housing and services if not for their contact with politicians.

- The initial efforts of Elisa and Cristina to access better services from the utilities through formal channels did not receive positive responses. The response came only after they placed pressure on and gained some form of support from local politicians.

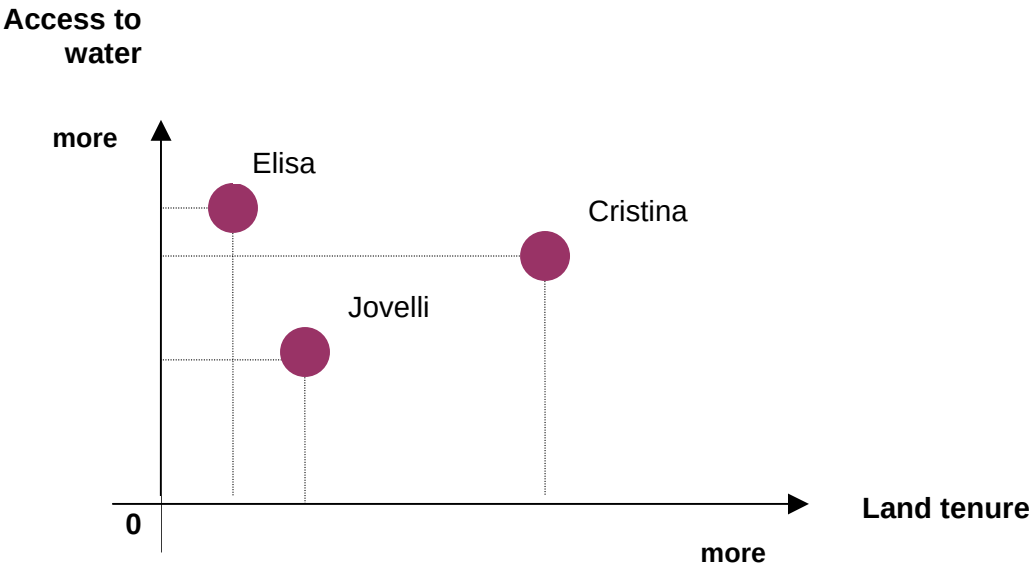
- Despite their sufferings as a result of being in informal-illegal communities, the three had a clear predisposition towards including their communities in a formal-legal frame, and are quite passionate about it. Joveli is articulate about the rights of poor people like her. Elisa and Cristina insist that the poor are impoverished only because they lack titles to a piece of land. With respect to the provision of water, they were not after dole-outs – they wanted to be charged in the same way as other users. With respect to land, they wanted to be regularised so they can be taxpayers who could use their property titles for negotiations that interested them.

The land ownership situation and the availability of accessible, secure and sustainable water, of the three women are as follows:

- Cristina, being recently connected to the service from Azurix, is close to obtaining a reliable service. With the certificate of sale, she is in a better condition with respect to the land she occupies.
- Joveli has a water system that functions irregularly and is precarious even though she finished paying for her housing.
- Elisa has a reliable water service but in order for her to achieve legal land tenure she must either fill the land her house sits on to meet the height regulation, thus burying her house, or be given an exemption to the law.

A graphic representation of the relative situations of the three women is shown in the following table:

Table 2.1: Relative Situation of Access to Water and Land Tenure



The stories clearly reflect the obstacles that many families pass through before achieving improvements to their quality of life. It is highly important to take account of each one of the

instances like: family abandonment, housing on loan, overcrowding, precarious services, an improved environment achieve for self, frustrated institutional attempts to solve problems, getting close to politicians, the predisposition towards organizing, etc. All of these aspects are, without doubt, not the path set up by the formal frame of legislation.

While in general terms obstacles could strengthen people, in the case of the three women it is more than understood that there is no justifiable reason why these obstacles should exist—even less when the reasons are structurally based in the consequences of being poor. These obstacles simply bring to light the inequality of opportunities that exist between distinct sectors of society that legislation does not consider.

On the other hand, these obstacles or barriers imply costs. These costs are not only the direct costs related to the reconstruction of a degraded social and urban environment that implies actions like: filling in plots, construction of housing, installation of `precarious networks' and their constant maintenance, community organization, etc. They are also costs related to the time and effort invested by families in processes, marches, and protests to overcome these obstacles. These efforts at the same time divert the ability of families from being able to invest in their educational and productive development.

In none of the fundamental theories of legislation is there a focus on the problem of illegality or inaccessibility, such that we could call it pro-poor. As a consequence the rules and regulations for the frames of action, as much for land and for sanitation, there is the constant tension of having to readapt the norms to existing situations that have not been considered (generally by means of the exception). This reflects the acute depth of the gap between "that which is formally demanded" and "that which is effectively available."

Today there still exists a polarization—black or white—that does not consider the wide range of grays that reality produces. To the contrary, there does not exist an inclusive focus that attends to and integrates the heterogeneous situations that exist within the logic of the capitalist system.

3. Land Laws and the Regularization of Illegal Land in Buenos Aires

Land laws in Latin America are complex. There are various decrees – national, provincial, municipal – touching on various aspects of ownership and on standards of developing property. This complexity is best exemplified by how the necessary papers to build a house on state-owned land in Peru can be obtained -- it will take at least six years and 11 months, involving 202 administrative steps that need to be processed in 52 different government offices (De Soto, 2000). Argentina, and in particular Buenos Aires, is not far behind, where today a number of fairly well developed laws and regulations (relating to urban land use) have emerged over the years. These laws provide the legal frame to govern the relationships of ownership and access to land, but the most important deficiency is that these laws say little about informal land tenure and do not regulate the problem of regularization of urban land in a comprehensive and coordinated fashion. This section presents an analysis of the problem of land in the informal sector in Buenos Aires.

Like elsewhere under capitalist systems, land in Buenos Aires is treated as a commodity. For the most part it is in private hands, while a small part is under collective ownership. There are also state-owned urban land, owned by either the federal, provincial or municipal government. As a commodity, there automatically emerges a formal market for land, where access is defined by either the market price, or by the norms (rules) that regulate land use and urbanisation. The value of the land is the product of the relationship between supply and

demand. The unique characteristic of land as a good is that one can obtain extraordinary benefits simply by owning it.

As in any market, there is the supply question of how the commodity or the good – in this case, urban land -- is created and brought into the market. Since land already exists, its transformation into a commodity is a function of the laws as well as social processes. In a certain sense, a city emerges when rural land is processed and transformed into urban land. A number of social actors are involved in the creation of urban land – various public institutions, owners, special agents (companies, real estate agents, commercial entities), industries, social sectors, and now, private utilities. These actors can be grouped into those who need land to support urban activities, and those who possess land as capital. Of those who need land to support urban uses, there is a distinction between those who can choose according to their preferences and those that cannot even access the legal land market.

Like in many big cities of developing countries, majority of the poor in Buenos Aires are not able to access the legal land market. Hence, alongside the formal markets exists the informal 'sub-markets' – for the semi-legal as well as illegal trading of land. While there is an absence of exact information, illegally occupied land in Buenos Aires has substantially increased since the 1980s, when a fresh wave of organized land invasions started. For instance, about 30% of the plots in the City of Buenos Aires lack land title despite having met technical and zoning requirements[1]. A number of questions thus emerge on who is able to trade land, under what conditions it is traded, how transfers are registered and disputes resolved, and who is the ultimate authority and what roles do government bodies have in relation to land. The sub-markets are not static. They are dynamic and may or may not be bound to economic policies, the distribution of incomes, and population dynamics. In addition, they are indirectly bound to state policies that have more influence in the land market, including the sectors of housing, infrastructure and financial policies. Yet in many ways, the informal sub-markets have a dynamic of their own that is only beginning to be understood.

Background to the Urban Land Laws

At the end of the 30's and the beginning of the 40's, internal migration greatly increased the population of greater Buenos Aires and provoked the explosive expansion of the urban area of the city. Thus, between the year 1940 and 1954, 74% of vacant land underwent urbanization, increasing the number of subdivisions that did not adhere to regulatory requirements. (Clichevsky, 1975) This urban growth was fuelled to a large degree by populist economic policies laid down by the Juan Peron government, and supported by a political generation favoring import-substitution. This produced a quick rise in jobs among big cities and improved the distribution of investment for the population and later guarantied for the first time in the country the rights of worker salaries. All this favored those in the suburbs to access the market.

which created jobs and improved income distribution, thus enabling broad sectors of the population to invest in land through the sub-markets.

Between 1949 and 1957, different laws and national decrees were created to regularise subdivisions in areas of low density, to fix minimum lot dimensions, and make obligatory the registration of certificates of sale in the Registry of Building Properties. In 1957, as a result of serious flooding, two provincial laws were passed – No. 6.253 that established the minimum distance of land from watercourses; and No. 6.254, which established the minimum acceptable level of the land that is 3.75 meters above sea level. These two laws established the restrictions on subdividing land near streams, rivers and lagoons, and the minimum quota

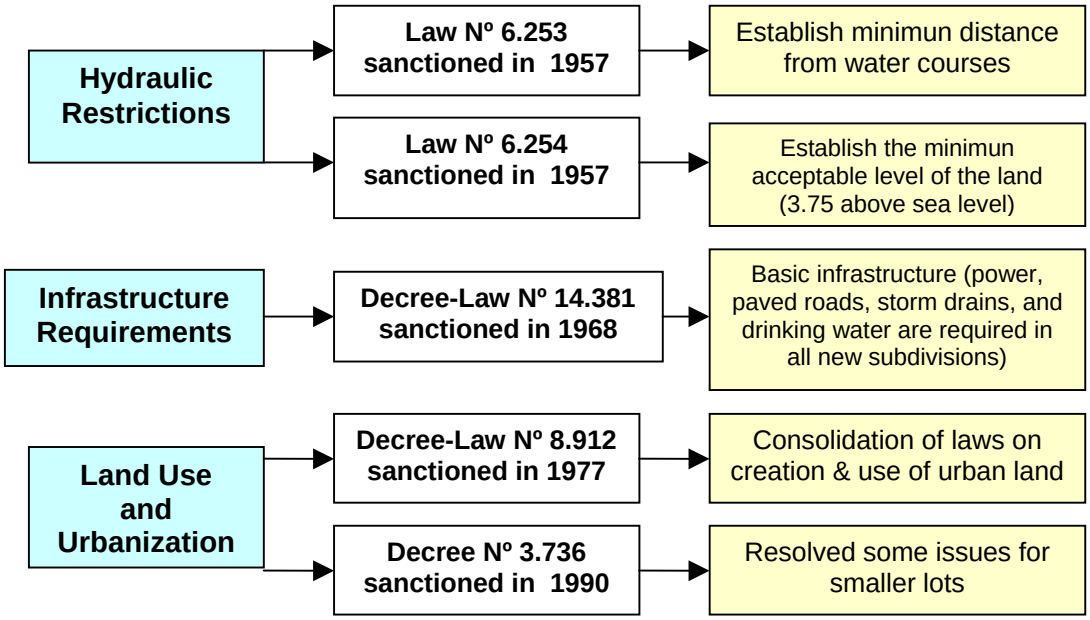
[1] Source: Subsecretary of Land of the Province of Buenos Aires.

for the height of subdivisions above flood level. Enforcement of these laws remains doubtful, because subdivision continued without intervention from the government.[2]

This decree demanded the provision of basic infrastructure to all new subdivisions, such as energy, paved roads, storm drains, and drinking water, thereby increasing the cost of developing land. Other laws were to be promulgated later, as shown in the Diagram 3.1

(After 1960, the Peronist government fell. The economic situation started to turn downhill. This provoked the fall of real wages and caused the majority of people to retract from buying land.)

Diagram 3.1 -- Laws that regulate land use and urbanization in Buenos Aires Province



Laws No. 6.253 and No. 6.254 is enforced by the Provincial Director of Hydraulics, while law No. 8.912 and its complement No. 3.736 are enforced by the Director of Geodesics. The latter approves subdivision but still requires the prior approval of the Direction of Hydraulics.

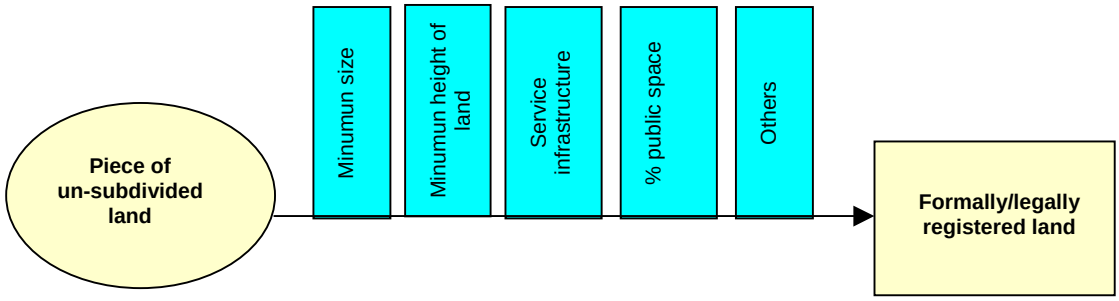
Decree-Law 8.912 on "Territorial Organization and Land Use"

In 1976, along with the military takeover of the government, a decree[3] was introduced to suspend the authorization of subdivisions for 180 days, after which a new decree was promulgated—Law No. 8.912, "The Law of Territorial Organization and Land Use." The goal of this law was to rationalise land use, and prescribe certain standards for the urban development of Buenos Aires. It provided strict regulations in the production of urban subdivisions. Subdivided lots adjacent to a primary street would henceforth have a minimum length of 150 meters, while those adjacent to a service road will have 50 meters. Urban lots in general will have a minimum width of 12 meters and a minimum area of 300 square meters. This law also reinforced the 1968 Law 14.381 by stating that urban cores and zones could be approved only after having completed the installation of running water, sewage, paved roads, electricity, public lighting and storm drains, and with verification that these facilities are functional. Furthermore, pieces of land will need to be ceded to the public way, public greens as well as reserves for municipal and other public facilities. This law also

[2] Carballo, Franco: "La regularización dominial en la Prov. De Bs. As. Programas de titularization de inmuebles privados destinados a vivienda social". 2001.
[3] Decree-Law No. 8.684.

consolidated the restriction on the acceptable height above the historic flood level on which houses and buildings in general will be built that was previously set by law No. 6.254 at 3.75 meters above sea level. These rules amounted to additional costs in the production of urban land, which are then directly transferred to the cost of subdivisions.

Diagram 3.2 --- The necessary requirements for the regulation of urban land according to the law



Later, the registration of lots was indexed to the technical measurements provided for by Law 8.912. This effectively tightened subdivision requirements, and ensured that the provisions of Law 8.912 would be enforced. However, the law suffered from a critical failure: it failed to consider that the provisions pushed the cost of urban land beyond a level that could not be met by impoverished populations. The law, whose intention was to prescribe a set of standards for urban development in Buenos Aires, also effectively removed the ability of thousands of Buenos Aires residents to buy land.

An immediate consequent result of Law 8.912 was land invasions and illegal settlements.[4] The institutionalization of the illegal market began to develop. Groups of landless urban poor would meet together, eye a particular property, and in one day, occupy and build temporary houses that they improve later on. There would also be the creeping type of individual illegal occupation. New dynamics emerge, like those who have 'pioneered' an illegal occupation facilitating or transaction further occupation by newer entrants or migrants. The informal sub-markets developed, simply because the poor were excluded from the formal market and the informal sub-markets offered them mechanisms to gain entry or access to urban land. A whole new set of actors emerged. There was the landless poor wishing to access land. Where they are found would be the illegal developers or land 'pirates' who took over idle properties to re-sell or re-distribute to the landless. But there were also landholders who continue to hold on to their properties and resist the pirates, but at the same time could not afford the cost of development. Finally, there were the politicians who may either defend or oppose the emerging sub-markets, depending on whether it could provide them with short-term political support through the clientelism that develops.

It is worth pointing out, as did Architect Farias[5], the difference between land invasions in the 80´s with that of the 90´s. In the 80´s, there was an organization that planned the invasion and which was supported by broad information about the possibility of obtaining a legal permit of subdivision, detailed studies on the land tenure and the support of a group of advisors, including land surveyors, lawyers, engineers, etc. Today, the invasions are instantaneous, with no previous research or information and legal support, and in certain cases occupations are done individually with no constituted organization.

[4] The term invasion refers to the relationship between people, housing and land in which a person occupies land or a house without legal authority to do so. The majority of illegal occupants are so out of necessity, because they can not afford the cost of land under legal conditions.
[5] Architect Alberto Farias, Director de Estudios y Análisis Dominial de La Subsecretaria de Tierras de la Provincia de Buenos Aires.

The cost of these illegal developments can be as high as those for legal development. In a traditional system of creating urban land there is a large initial investment, sale of the land, issuance of title, construction of the house, connection to services, etc. Then a potential owner can acquire credit and buy the house according to their financial projections. The illegal market is the reverse. First, the land is occupied then subsequently developed, filled, surveyed, etc. Then over years, a more permanent house is built and the struggle begins for obtaining services. Finally, after many more years of searching for social rights, and as a product of political justification, the land is legalized. In other words, the illegal market has become the *real* (though not formal) market in a situation where the legal, formal market has essentially failed. It is the poor – not the government, urban planners or real property developers – who develop a large part of the city, converting and creating urban land over generations without initial capital and subject to the 'rules' of the illegal market: speculation, bribery, and corruption at every nearly turn of the way. But a further irony exists: a parcel of land initially developed illegally but which eventually achieves legality will rarely reach equal worth to a parcel of land that began the process legally. It is very difficult to reach an equal standard of quality when the improvements were done over time with very limited resources. The contributions of the informal market are never formally recognised.

According to available data (1991)[6] 16,8% of dwelling units in Greater Buenos Aires consisted of sole proprietors of the home with irregular tenancy[7], and 30% of the plots in the City of Buenos Aires lack land title despite having met the aforementioned technical and zoning requirements. This data points to two types of constraints, the first is in resolving the technical matters of subdivision and the second is in administrative matters.

The absence of precise and actualized data does not allow inference as to the proportion of irregular situations being considered in the second group of subdivisions without title. The spirit of Decree-Law 8.912 is clear – to prescribe and enforce a set of standards for urban development and to put a stop to new speculative subdivisions without the provision of services. When the law was created, it was therefore seen as a solution to the problems – it provided the guidelines needed to stabilize and regulate urban land development. But today, it has become part of the problem as well – simply because it does not account for those irregular situations already in existence. Decree-Law 8.912 and the legal regime it established does *not* consider that the illegal has become a norm, that the irregular transactions in the sub-market has become 'regular.' In many ways, the technical regulations it prescribes are what make the situation difficult and costly for new settlers, triggering more illegal situations and transactions.

Due to this explicit oversight, in the 80´s some modifications were put forth in and attempt to make up for what the law left out. For example:

- Decree 2210/80 facilitated the approval of subdivisions smaller than those prescribed in Law 8.912 if the houses had been built prior to the existence of the law.[8]
- Decree 8056/87 permits the formal subdivision of parcels that have already been informally divided into lots and serviced with infrastructure connections, only in the case that the large parcel is jointly owned by a cooperative entity.

An additional law that accounted for what Law 8.912 did not is:

[6] La Subsecreteria de Tierras de la Prov. de Buenos Aires, has intended by various means to centralize the information of each municipality according to land titlization, but with few results. This data represents the overall picture of all the municipalities in the Buenos Aires metropolitan area.
[7] Source: INDEC, National Census of Population and Housing 1991.
[8] Some examples are the cases of regularization where, as products of strong political intervention, the following lot sizes were approved in several municipalities: Merlo, lots at 9x17, Moreno, lots at 100m2, Lomas de Zamora, lots at 9x18.

- Law 13.152 on horizontal property that gave both exclusive and absolute ownership of this good, as well as shared ownership where the right to property and use are relative. This created the possibility of special forms of land subdivision.

In general terms, it is possible to say that Law No. 8.912 can be characterised as, among others:

- An attempt or intention of the state to regularize the use of the land according to a set of prescriptive norms that obliges the municipalities of Buenos Aires to introduce and validate planning as an instrument for the organization of urban development. This, despite the notable differences in the degree of importance given to planning in local institutional structures.
- A meticulous specification of use, land subdivision, and levels of infrastructure and facilities that allows the municipality to enact preventive zoning according to use in order to establish a clear urban order and put a stop to real estate speculation, at least in the "formal city".

There are a number of laudable principles in Law 8.912. For instance, it also prescribes "organic community participation in the process of organizing property". This can be seen as a prescription that forces municipal authorities to come use participatory methods of planning. Yet this remains only in theory. The wealth of evidence shows that this participation is lacking in practice. Another example is the prescription for interjurisdictional plans between neighbouring municipalities. This opens the path to regional norms of cooperation and the development of problem-solving techniques for urban problems that a single municipality alone could not resolve (i.e. sanitation, environment, commercial and public transit, large axis of circulation, etc.). Yet, this again boils to down to the capacity as well as willingness of municipal governments to develop such norms of regional cooperation. In short, Law 8.912 can be faulted for the following more detailed negative effects or deficiencies:

- It lacks the instruments (economic, management, monetary, and participatory) to achieve its general objectives. The entities in control of planning and land management are dispersed and have visibly deficient or overlapping objectives.
- The categorization of provincial land as either urban or rural, without recognition of geographic regions or variations in development, from completely urbanized and high density (i.e. the first ring outside of the Federal Capital) to almost totally rural population.
- An excessive centralization and bureaucratization of established mechanisms for the approval of plans. This works against the principle of municipal planning and regulation, and generates legal insecurity. As a result, Buenos Aires has an urban duality: the "formal city" that achieves the norm, and the "informal city" built out of massive development, spontaneous and uncontained.
- The differential treatment of special developments. For example, there exists country clubs that are accorded special recognition and that exist within a special set of rules. Yet there is no similar openness for special rules for the provision of land for social uses like housing the poor, for use as open public spaces, etc.
- The absence of essential mechanisms of planning and land management for the expropriation and the recuperation of added value that are considered worldwide in the most advanced legislations regarding property.

The informal neighborhoods, which exist outside of the norms of the law, are thus disadvantaged not only by their lack of the necessary technical, legal and physical conditions for more suitable habitation, but also by the provisions of the law. They face technical limitations (i.e. they are in zones – rural, industrial, land reserves – that could not be registered for urban residential use). They face physical limitations, like those

neighbourhoods in flood-prone lands with insufficient or deficient infrastructure and high population density. Finally, they face complex legal-administrative limitations that hinder the regularization process, including the transfer of titles between different branches of the state, the prerequisites to parceling of land, and institutional requirements as in the creation of cooperatives and mutuals in order to make transfer possible.

Regularization is not only a problem for legal inheritance of property, but in many cases constitutes the first step to strengthening the capacity of settled populations to improve their quality of life. It is thus no surprise that there exists a strong relationship between violence and crime and irregular settlements. A whole new set of other social problems since illegal ownership of property encourages other illegal situations. The illegal landowners could not achieve creditworthiness by virtue of their being possessors of land. Hence, they could not gain access to financial institutions that may be able to lend them with capital for other socio-economic uses, or even for the planned development of the property they possess. They also could not be recognised as legitimate users of services, making it nearly impossible for many of them to gain legal electricity or water connections. Operating outside the formal market of prescribed laws, they could not be subject to building code regulations, making it extremely difficult to develop the illegal settlements as 'normal' planned urban communities. In short, the poor who have de facto invested in the 'informal' development of the city that in many cases is the 'norm' could are excluded from and could not gain the benefits of urbanization, simply because they do not have legal proprietorship on which the formal economy is based.

In practice, the resolution of majority of illegal cases (i.e. regularization) is made from exceptions to Law 8.912. These are cases which are resolved based on the discretion of the civil servant, and which are outside the protection of certain laws and decrees already functioning. For instance, with certain conditions a neighbourhood can be approved even when it has serious hydrological problems. This discretionary resolution of cases poses a number of dangers because power and decision-making is concentrated in the hands of certain individuals who may use for a variety of other non-transparent purposes. Furthermore, if exceptions to law have constitute the majority of cases, what is the wisdom of keeping a law that in effect could not prescribe its objectives?

Architect Farias argues fervently for the necessity of a new law that considers, exclusively and principally, those cases that the existing law ignores. A remedy for technical illegality is to accept the existence of settlements, supply them with the necessary public services and incorporate them into the official and legal urban sector without destroying the settlements, or their social and economic systems. There are cases of informal settlements that have existed for more than 40 years, which has gained services but still do not have approved lots and subdivisions. It is necessary to include this sector in the formal city because it is the way of inclusion into the rest of the formal society. It is necessary to have a legal home in order to obtain a job, services, security and inclusion in the category of citizen.

Informal Settlement Trends in Buenos Aires

The three communities of San Martin, Villa Zelmira and Jardines Uno are representative of key trends in the urbanisation and demographic growth seen in Buenos Aires in the last 40 years. There is a great variety of forms and types of informal occupation of land and housing -- different types of informal housing, different degrees of squatting, and therefore different types of squatters, homeless or 'vulnerably accommodated' people.

Within the urban areas, two categories can be identified. First are what are called *inquilinato* or *conventillo,* found in the central neighbourhoods of Buenos Aires City proper, and which has existed since the period of European immigration. *Inquilinatos* are basically tenants in buildings or tenement houses. In these places a family's housing decreases to a rented

room, sharing the same bathroom and or kitchen with others tenants. Spaces in these buildings may be owned directly by a private person, or are being sub-let by main tenants. *Inquilinatos* have been decreasing rapidly in the past years. This is due to the gradual degeneration brought on by proprietors abandoning the buildings. In other instances, the buildings are renovated and sold to a more upstream middle or upper class market. In other places, the properties are transformed into long-term hotels inhabited by low-income people.

The other category of low income housing in densely populated urban areas is the *casa tomada* (squatter houses). These are mainly one-family housing (rooms or flats) which have been abandoned by their proprietors and then occupied informally by several families. This form of squatting has increased during the last decades.

Within peri-urban areas where there is still abundant non-urbanised land, more varied forms are seen. The first form is the spontaneous and individual occupation of public and private lands. This involves gradual occupation of spaces, sometimes extending into the strips of land set aside for streets. This gradual occupation takes years and in general does not have a density limit. This implies that successive families settle and take possession of a piece of land. This process characterises the formation of “villas miserias” or shanty towns.

A second form is the more organised illegal transaction of land. Because of large-scale subdivisions in the 1960s and the high demand for land closer to Buenos Aires from migrants from the rural areas, prime land for settlement were taken over and driven mostly by speculation and fraud. Consequently, large planned neighbourhoods were created, though without services and without land tenure rights.

A third form is the organised and massive occupation of land plots with different property status. This phenomenon has developed acutely in the last two decades. It requires, though implicitly, a previous organised urban planning process, including research into the tenure status of different land plot and in many cases with the consent of a municipal official. Contrary to the shanty towns, the final product of these occupations is “urbanised settlements”, where the model of the neighbourhood is previously designed, the lots are identified and the families are registered.

In sum, San Martin can be classified as the first form, Villa Zelmira is a variation of the second form, and Jardines Uno is representative of the third form.

The Public and Private Categories of Illegal Urban Land

Of all the informal, irregular and illegal land in Buenos Aires, a distinction can be made between those lands that are owned by the municipality, and those lands that are private property. This is because in 1980, Provincial Law No. 9.533 transferred the majority of provincially owned land to the municipalities. Municipal land has different owners within the state apparatus. The relationships between each one of these entities and the municipal government are different according to political affinities and particular interests.

Architect Farias mentions a myth saying that it is faster or easier to resolve an occupation of municipal land than of private land. In fact, there are innumerable obstacles to resolving both. The only radical difference in the case of private land is that there is a third actor – the private owner who is external to the state and neighbourhood organization – who must be included in the negotiation process before ownership issues can be resolved.

The biggest problem regarding the regulation of government land is that Provincial Law No. 9.533 did not transfer *all* the lands to the municipalities, and that many of the transfers were conditional. A large part of these lands were transferred as donations accompanied by

requirements intending that land for a specific purpose. This means that if the land is not used for the purpose it was intended for by the original donor, this donor has the right to reclaim the land. Many irregular settlements on government land are in this situation. There exist, of course, technical, legal and political mechanisms to get around these obstacles but it bureaucratically cumbersome, not easy to do and can take many years.

The processes of regularization of government land in general have to been seen as the relationship between diverse actors. Municipal governments face a series of difficulties in dealing with regularization. For instance, the process demands an interdisciplinary team, suitable professionals like lawyers and surveyors in permanent positions. They also have to contend with the oftentimes difficult relationships between the executive and legislative branches, the community pressure to implement projects, the lack of community organizations independent from the municipal apparatus, or the lack of incorporation and involvement of other sectors like churches, NGOs, and social organizations.

The type of ordinances used at the local level to resolve different kinds of land title irregularity differ in application according to orientation. There is *case-to-case* resolution or legislation according to particular neighbourhoods; *normative* decision-making involving single ordinances with a list of beneficiaries); and *open* ordinances which are matters of principle that encompass all municipal land.

The stages of land transfer from the government to illegal settlers generally the following process:

1. the act of preadjudication (for an open ordinance);
2. the request for transfer of land (for a normative ordinance);
3. the certificate of sale authorized by the government; and lastly,
4. the issuance of the deed, 180 days after the signing of the certificate (and having complied with the related obligations and expenses).

In the case of private lands, the community organization generally leads in management with the support of the municipality and an NGO. The solutions in these cases are either municipal expropriation or the outright purchase of the land from the private owner by the current dwellers and/or their supporting organisation. In the case of expropriation, the municipality or the province purchases the land in order to then transfer it to the occupants. In the case of purchase, the community organization, backed by neighbors, buys the land through a mutual or cooperative purchase while the municipality plays the role of mediator. There have been some cases where charitable foundations and churches have purchased lands on behalf of poor illegal residents.

The Law of Expropriation allows obtaining lots at dimensions less than those established in Law No. 8.912. In addition it gives exemption from compliance with laws No. 6.253 and No. 6.254 regarding hydrology. This law is one of the principal tools for dispensing with the hydraulic and land area requirements, the primary obstructions to regularization. But the biggest problem with expropriation is the cost. Not one of the three levels of government can face the cost of compensating an owner (the principal component of perhaps all negotiations), the costs measuring and subdividing the land, and then waiting for the legally prescribed 10-25 years within which the beneficiaries should repay the costs of expropriation. But on the other hand, expropriation is most effective for achieving cost-benefits for large settlements (i.e. administration and financing can be much easier). The problem is that today, there are but few original owners who have large occupied areas.

The Ley Pierri Title Legalization' (Law 24.374 or Land Tenure Law)[9]

Due to the increasing occupations of private land in 1994, law No. 24.374 was promulgated in the Province of Buenos Aires.[10] This law benefits occupants of private land that can prove peaceful occupation over three years prior to January 1, 1992, and this being their sole and permanent dwelling. This law was created on the grounds that the informal sector have few and insufficient resources and generally lack knowledge on the process of title legalization.

This law has a number of important elements that allow individual families to access the land regularization processes. If the occupation is peaceful – i.e. it has not been challenged by the owner – the law declares this occupation as lawful and therefore entitles the occupants access to have the titles to themselves. The law also required the government to extend the period of 'precarious possession' to include more lands that can be subjected to regularization. The law furthermore eliminated payments for notarization and deeds. The cases considered included those buildings located on private land in urban zones that comply with the existing necessary requirements for urban land. In this sense the law is of great importance as it permits regularization and access to titles for inhabitants of many impoverished neighborhoods settled on private land who would otherwise be unable to complete the process of titling.

However, Law 24.374, like Law 8.912, also fails to encompass in its resolution the great majority of irregular situations. This law does not relax the requirements on flood levels or minimum lot size prescribed, which as mentioned earlier, are two key restrictions that push urban land prices way beyond the reach of the poor. It also fixes minimum criteria for urbanization that exclude many existing occupants. Finally, this law does not apply collectively – it is individually for each case.

The law first gives the private owner 30 days to respond before the government can present formal request or Act the Registry of Property for an expropriation or purchase. When this presentation is made, a 10 year period is started within which the old owner can claim rights and within which government should make a decision as to the rights of the old owner. After 10 years, the property can be registered to the name of the new of the holder, but not before having presented a subdivision plan and proof of having completed the administrative process. The cost for the beneficiary is 1% of the value of the building.

Under the protection of Law 24.374, land can be registered even when it does not comply with the hydraulic requirements (laws 6.253 and 6.254),and land use (law 8.912). Currently there are 180,000 acts of transfers registered, with 100,000 more are being processed, and approximately an addition 10,000 more irregular settlements registered but with the process yet to be started. (Subsecretary of Land, Province of Buenos Aires)

For the beneficiaries of the law, the process amounts to:

- Making repeated trips to the capital of the province where the Registry is located;
- Having familiarity with provincial departments;
- Learning how to complete the process and understanding that the actual deed is the very last item issued;
- Receiving information from the municipality;
- The municipality constantly updating the registry of the potential beneficiaries;
- Submission of subdivision plans is required.

[9] An exhaustive anaysis of Law No. 24.374 was conducted by Franco Carballo Marina in "Regularizacion Dominial en la Provincia de Buenos Aires—Programas de Titularizacion de inmuebles privados destinado a vivienda social."
[10] This law was regulated by Decree 3991/94 and reformed in Decree 2815/96.

These steps are rarely viable for the potential beneficiaries of the law without assistance and investment from the government. There are cases that are 4 years away to achieving titles but few of these are the result of government diligence to deliver the benefits of the law to the poor. But it is also important to emphasize the utility of the notary act made possible by the law. It is an instrument useful in accessing installation of services, for the development of socially oriented housing plans and its incorporation into the municipal system and finally and most importantly for the undocumented poor settler -- the establishment of residency.

The Role of Private Water Utilities in the Regularization and the Creation of Urban Land

Because of the sheer magnitude of informal settlements in Buenos Aires, certain legal instruments have emerged that permit many of the restrictions of laws No. 8.912, No. 6.253 and No. 6.254 to be dispensed with, in favour of poor settlers. However, these are still insufficient to solve the majority of existing cases of irregularity.

Connection to infrastructure services is a requirement that continues to be important to regularizing urban land. As confirmed by the Director of Land Ownership Studies and Analysis for the Province of Buenos Aires, while it is not one of the major determinants for regularization, it is a factor that needs to be taken into account. For instance, sanitation infrastructure remains a requirement for the legalization of illegal land. The key complicating issue is that water and sanitation services have been privatised. This means that the power to regularize illegal land, are in some form, now in the hands of the private companies operating the water and sanitation utilities. Should the company decide to extend sanitation infrastructure to illegal settlements, this opens the possibility for easier and smoother regularization. But if the company decides not to, they can block a process that in spirit has already been mandated by law.

Primarily, it is the company that decides the criteria and develops the plans for service expansion. The regulatory office then gives approval. However, the company does not participate or make decisions in any of the official steps in the process of creating provincial land. Thus, what emerge is the potentially vast new de facto powers for the company – since they define the criteria for the design and expansion of the infrastructure network, the will in effect be defining and regulating the growth of the city to a certain extent. With inappropriate and insufficient regulation, the government effectively passes the direction of urban development to the hands of private companies. This can potentially open a can of worms, such as speculative buying and development that are essentially decided in corporate boardrooms rather than local legislative offices. The paradox is that the power to decide where to put the pipes (for water and sanitation) can easily be transformed into a power to decide the growth of the city, to decide which property can become more valuable, or to decide whether poor informal settlements will at all be regularised. The privatisation of water supply and sanitation in Buenos Aires may have resulted in the abdication of government on its duties on urban development, contributes to an absence of comprehensive strategic planning, and may have unwittingly ~~(?)~~ empowered private companies who are accountable to their shareholders and not the general public.

It is thus extremely crucial that the nature of the laws – especially those that pertain to land tenure and the regulation of services -- be examined carefully within the social and political context that they will operate. As demonstrated by the experience of land use and regularization in Buenos Aires, laws that were created to achieve some useful social purpose like the protection of residents from floods (e.g. the provisions on hydraulics in Law 8.912) may in practice threaten and harm the residents who had no choice but to settle in informal communities in low lying and precarious areas. Laws may actually harm people, who because of their poverty, can not comply with the requirements of those laws. The main laws that legislate on urban land use and tenure were created during the military regime from a

technocratic paradigm of planning based on growth achieved through big state investments in transportation, roads, infrastructure and public goods. These were conceived within a model of strict control, with the state in control of investments and growth, and with little attention paid to the roles civil society can play.

It is quite clear that the State, despite all its powers, could not be the sole agent in control of the dynamic land market (legal and extra-legal). Real estate agents have traditionally played intermediary roles crucial in the formal market, in the same way that land pirates and masses of landless urban poor have de factor established the informal market. Today, a new and very influential actor is emerging – the private water and sanitation utilities.

From the perspective of people that lack land ownership and do not have access to services, piped water and sanitation provision can achieved through public-private partnerships can contribute to housing security. But this will dependent on a range of legal and other negotiating instruments that they can use to agree with or compel the private companies to act in accordance with the poor's interests. The problem is that at the moment, such instruments are not yet fully developed, much less coordinated to achieve and secure the desired impact.

Today, in Argentina, the progressive planning of the regularization of illegal land does not exist, and neither does planning that combines regularization with service expansion plans. Thus, the true problem is structural, it is the lack of land policy (a regulatory frame) with a social focus that integrates and connects the policies of development with the sector of housing and infrastructure.

4. Legal Issues in the Water Concessions of Buenos Aires

Government restructuring was implemented in Argentina in the 1990s. A key component of this restructuring was to transfer to the private sector the control and operation of service utilities. Private control and operation, it was argued, would improve performance, expand the area of coverage, provide alternative means of financing, and reduce the fiscal burdens of the public sector. Within five years from 1990 to 1994, national companies in telecommunications, petroleum, gas, electricity, water and sanitation, trains, subways and airlines were all passed into private hands.

Until 1993, the public utility *Obras Sanitarias de la Nación* (OSN, National Sanitation Works) was responsible for providing water and sanitation services in the Federal Capital and Greater Buenos Aires. Included in this responsibility was monitoring and controlling direct and indirect contamination of water sources, and ensuring the quality of water produced in its treatment plants. OSN was not financially autonomous. It depended on transfers from the National Treasury and was administratively responsible to the Ministry of the Economy and National Public Works that in turn was responsible for policies on tariffs and investments. Coverage level in 1992 was 70% for water and 58% for sewage. Coverage tended to favour the wealthier areas. Higher levels were seen in the Federal Capital, with about 3 million inhabitants. In contrast, Greater Buenos Aires with 5.6 million inhabitants only had 55% coverage for water and 36% for sewage. Given the inability of the public utility to reach higher levels of coverage in this area, most new connections were achieved and financed through neighbourhood associations and municipalities. OSN in 1992 spent more than 80% of its budget on operations and less than 5% on new investments. This had a large negative impact, putting expansion to a standstill and reducing the efficiency of maintenance of the system. (El Saneamiento an el Area Metropolitana , Desde el Virreynato a 1993. Ing. Osvaldo Rey)

At the moment the concession was taken over by Azurix, the average coverage of the 3.7 million inhabitants of the province of Buenos Aires and Gran La Plata was 57% for water and 37% for sewage. [11]

AGBA was given a contract to provide services in the least attended area. According to company figures[12], out of a population of 1,711,500 inhabitants in the concession area, 13% was served with water and 12% with sewage.

In April 1993, the Federal Government awarded a 30-year concession to the company Aguas Argentinas S.A. for the provision of potable water and sewage services to the city of Buenos Aires and 13 districts that make up the urban area immediately surrounding the Federal Capital. This deal was made in conformance with Law 23.969, an act that gave rise to the process of privatization of sanitation services throughout the whole country. In June 1999, the Province of Buenos Aires signed a second 30-year concession contract for with the Azurix, covering 56 districts in the province.[13] In November 1999, the Province awarded a third concession contract to Aguas del Gran Buenos Aires (AGBA). This concession was to service the areas of Malvinas Argentinas, Jose Paz, San Miguel, Moreno, Merlo and General Rodriguez and the locality of Belen de Escobar in the district of Escobar, also for a period of 30 years.

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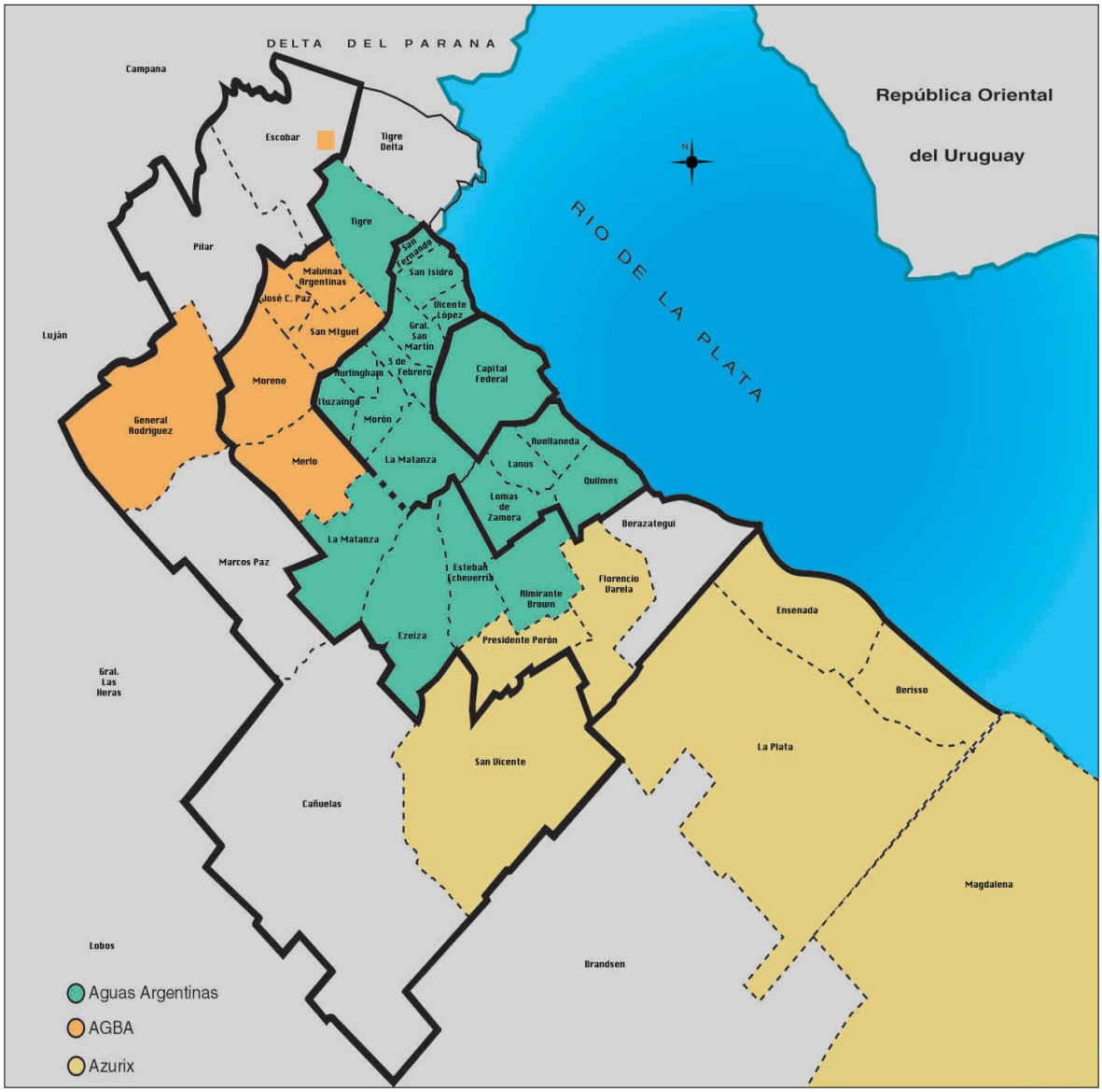
[11] Gustavo Saltiel, Tercer Seminario Internacional *La Transformacion de las Empresas Prestadoras de Servicios de Saneamiento: Desafios Pendientes* Buenos Aires, Noviembre 2000

[12] AGBA. "Document of Information of the Service", August 2001

[13] The 56 districts include 78 localities. The area of concession is subdivided into the following three regions: Region A: Bahia Blanca and the 10 districts of the southrern zone; Region B: 7 districts of the northeastern section of the metropolitan area surrounding the Federal Capital (i.e. Conurban area); and Region C, subdivided into the 4 subregions that include: C1: Gran La Plata; C2: Florencia Varela, San Vincente, Pte. Peron; C3: West (9 de Julio, Pehuajo and others); and C4: Eastern Zone (Ayacucho, Dolores and others).

The award of these concessions was justified on the basis that the contracts provided for universal coverage – that the companies have the obligation to extend water and sanitation services to everyone in Buenos Aires by the end of the contracts. It is often the case that low-income families were those who did not have access to services. Private operation was also argued on efficiency grounds, that the companies were contracted to resolve the increasing problems of contamination of underground and especially surface level bodies of water. Regulatory processes were put in place to ensure that these targets, along with other key performance targets such as the reduction of non-revenue water, the improvement of billing, the increase in pressure, or upgrading of the system are met. However, the key problem is that formal administrative actions necessary for access to services exclude sectors of extra-legal tenure. Residents of informal settlements and the other 'extra-legal' or 'illegal' residents of the city must take a different route and implement alternative methods of accessing services. It remains to be seen whether private operation would indeed deliver universal access and the efficiency targets for which the companies were contracted for.

Figure 4.1: **Map of the three main concessions in Federal District, Greater Buenos Aires and Greater La Plata**



Legal Land Tenancy and the Provision of Services

As was shown in particular by the experiences of Elisa, the lack of legal land tenancy prevents residents of informal settlements from accessing water and sanitation and other public services. This is because administrative procedures are structured around legal tenancy – i.e. a connection will be established only to registered owners of registered land and houses. But the big paradox is that an analysis of the laws and regulations governing the concessions shows that the lack of land tenure, at least in theory, should not be an obstacle to access to services. This section will show the legal instruments that guarantee the rights of illegal occupants to access services and which impose obligations on the concessionaire as well as the government to provide these services *to all*.[14] The law therefore provides for access to these services, but administrative procedures followed by concessionaires and municipal governments lead to a denial of these rights and guarantees.

The contract, the rules of regulation, and the provisions of Decree 674/89 are the main documents that fixed the terms of the Aguas Argentinas concession. The services to be provided include all functions related to collection, treatment, transport, distribution and sale of potable water. Also included is the collection, transport, treatment, disposal and eventual commercialisation of sewage, including industrial effluents that spill into the sewage system. The responsibilities include technical and commercial operation of the systems, maintenance, and financing the necessary investments in order to meet performance goals determined in the contract. The Azurix and AGBA contracts had similar objectives.

A key provision of the contracts is the maintenance, expansion of existing networks, and outright construction of new networks to reach into the unserved areas. A company can request an expansion of their coverage area to zones not included in the original contract, subject to the authorization of the regulatory office. In the Aguas Argentinas concession for instance, the number of districts now covered exceeds 17 as some from the original group have been subdivided and Quilmes has been annexed. This provision on expansion is the critical step in delivering water and sanitation services to the poor households of Buenos Aires. In theory, they enjoy the protection of certain laws that guarantee universal access to water and sanitation. Hence, the contracts place on obligation on the companies to connect all the inhabitants of the concession areas to the system of water and sanitation, and to treat of all wastewater collected. However, despite these judicial protections, legal land tenancy is a requirement in most administrative procedures to access services. Illegal occupants – who comprise majority of Buenos Aires' poor -- therefore face a series of administrative and technical barriers to access services. Though difficult, there are various ways around these barriers.

The problem therefore is to identify the legal recourse available to illegal occupants in claiming their entitlements to services. Table 4.1 below presents a summary of legal instruments that may be used by illegal occupants in order to gain legal access to water and sanitation services. A system of ranking is in force amongst these documents -- in case of contradiction between the levels, the superior range will prevail with the Constitution as the most superior instrument.

Table 4.1 Legal Judicial Instruments That May Be Used by Illegal Occupants

Utility	Judicial Instruments					
Aguas Argentinas	National Constitution of Argentina	Organic Law of National Sanitation Works	Regulatory Frame approved by Decree 999/92	Specifications of the Concession (not including	Concession Contract and Decree of approval of	User Regulations approved in the ETOSS

[14] The discussion presented is based on consultations with specialist lawyers -- Dr. Jorge C. Davies and Dr. Natalia Gherardi of the Klein & Farnco Firm, Buenos Aires.

		Nº 13.577 (according to modifications)	Of the National Executive Branch (PEN)	the revision of explanatory brochures)	the same	Resolution N° 32/94
Azurix AGBA	National Constitution of Argentina		Regulatory Frame approved by Provincial Law N° 11.820		Concession Contract	User Regulations

Article 42 of the national Constitution[15] establishes the rights and guarantees for users and consumers of public services. It must be emphasized that of these public services, water and sanitation is most crucial as people cannot live without it, unlike electricity or transport for instance. Scarcity of water reduces the quality of life; lack of sanitation services is the chief cause of many water-borne diseases.

The Aguas Argentinas Concession

After the Constitution, the next most important law governing the Aguas Argentinas concession is Law 13.577 on National Sanitation Works. A key provision of this law is Article 26, which says, "the provision of water and sewage services will be obligatory for all inhabitable buildings within the areas where distribution pipes for distribution of water and collection of sewage have been installed. The obligation also governs those uninhabitable buildings of whatever material that are constructed to protect against the elements or as an animal shelter."

Next is the Regulatory Frame, approved through decree PEN (*Poder Ejecutivo Nacional* or National Executive Order) NO. 992/92. This instrument includes the following provisions:

- *Article 6*: "Conditions of provision: The public service... will be provided by obligation and under conditions that guarantee its...universality..."

- *Article 9*: "The concessionaire must extend, maintain, and renovate when necessary the external network, connect and provide service to all the inhabitable buildings within the service area and expansion area, in accordance with the conditions established in Article 6 and with the established plans for improvement and expansion."

- *Article 32*: "Universal Right: all physical or legally recognized entities that live or are established within the confines outlined in Art. 2 have the right to the provision of potable water and sewage according to the guidelines presently established."

- *Article 42, section a*): "Service coverage: it is the objective of the concession that regulated water and sanitation services are available in the period of time and to the extent set out in the Concession Contract for the residents of cities and villages."

Finally, there is the Concession Contract itself. Article 4.3.1 states: " The water and sanitation services must be available for inhabitants of the regulated area in the period established in Annex 1..." (Goals and Obligations for Service Improvement and Expansion). On the other hand, Article 4.3.2 on "Obligation of Provision of Service" states: "the Concessionaire must extend, maintain and renovate external networks, connect them and provide service for common use by the conditions established in this chapter to all inhabitable buildings, residential or not, included within the Areas of Service and Expansion**."**

[15] Article 42: "The consumers and users of goods and services have the right, in relation to consumption, to adequate and truthful information, to the liberty for choice and to fair and dignified treatment."

None of the cited provisions establish exceptions that could exclude certain people or groups from receiving the service. On the contrary, Article 13.10.2 of the Concession Contract provides the application of fines to the Concessionaire in the case of "any form of discriminatory or incorrect conduct towards a user or group of users in particular."

In summary, in the different laws and rules cited here, there is not one single restriction to support the argument that illegal tenure of land is an obstacle to being connected to services.

The Azurix and AGBA Concessions

The Azurix and AGBA concessions are similar and may be analysed together. Like in the Aguas Argentinas case, there are no laws or regulations that bar residents without land tenure from accessing services. For instance, the Regulatory Frame used similar wording as the national law, especially on the provision of universal access to service:

- *Article 4-11*: Conditions of provision -- "The public service is obligated to provide according to conditions that assure its universality**."** (the same as Art. 9 of User Regulations).
- *Article 7-11*: Extent of service provision -- "The Concessionaire must extend, maintain, and renovate when necessary the external network, connect and provide service according to the conditions established in Art. 4-11 to all inhabited buildings included in the Area of Service and Expansion as established in the respective POES (Programs of Service Optimization and Expansion).
- *Article 3.4*: Obligation of provision -- "The Concessionaire must maintain and renovate the public works and electromechanical installations and extend, renovate, and/or condition the external network of water and sewage in such a way as to guarantee the normal provision of service to all buildings included in the Service Area and in the Area of Expansion according to that planned in the POES and Five-year plans."

As such, the obligation to extend services to all buildings within the Area of Service and Expansion is clear. The exclusion is only for residents outside the service area.

However, there is more limited language in the Concession Contract. Article 3.3 says:

> "The service of provision of potable water should be extended to reach all of the urban population that resides in the Concession Zone, according to the terms of the POES and Five-year plans. For its part, the sewage service should be expanded to the urban population in a manner that complies with the established methods in POES and Five-year plans."

This shows that the Concession Contracts makes the distinction "*urban population"* which could be interpreted as meaning that there is no obligation to extend the service to non-*urban populations.* However, this limited language that may create contradictions between the legal interpretation of the Regulatory Frame and the Concession Contract, should not pose a problem at all for illegal occupants. The Regulatory Frame is the superior law, therefore, Article 3.3 of the Concession Contract may not overrule the provisions of the Regulatory Frame.

In any event, there is Article 4.3 of the Concession Contract that establishes that obligation of ORAB, the regulatory body, to exercise police power and "consider the rights and interests of the users, the characteristics of service and the principles of universality in the provision of service in full accord with that put forth in the Regulatory Frame." In the same fashion, Article 39-11 of this Regulatory Frame establishes that, "The Concessionaire is obligated to

the plans put forth in the Concession Contract and failure to comply will be considered a grave error."

Along the same lines, the following articles of the Regulatory Frame establish:

- *Article 18-11*: Universal right – "All persons that live or are established in the confines written in Art. 1º-11 have the right to the provision of potable water and sewage in accordance with the presently established standards."

- *Article 26-11*: Service coverage – "It is the objective of the concession that potable water and sewage services are available in the time period and to the extent fixed in the Concession Contract for the inhabitants of the cities and towns in the concession area."

Finally, Article 13.2.5.5 establishes the fines and sanctions that correspond to the case of delays in POES, whose purpose is to ensure that five-year plans must fulfil the minimum goals laid out in point 2.1 of Annex F of the concession."

The role of the regulators

The regulatory body for the Aguas Argentinas concession is the ETOSS (Ente Tripartito de Obras y Servicios Sanitarios), while for Azurix and AGBA it is ORAB (Organismo Regulador de Aguas Bonaerense .The regulatory bodies are autonomous entities charged with supervising the performance of the companies and verifying the fulfilment of contractual obligations.

The principal responsibilities of ETOSS include the revision and approval of system expansion and maintenance programs, the revision of tariff structure and the verification of fulfilment of investment plans. ETOSS Director Engineer Martin Lascano says that the goals of expansion are calculated on the basis of the residential population in the concession area, not reflecting whether or not these residents have regular or irregular tenancy. Furthermore, he says that the contract does not have legal restrictions if universal coverage is honoured. However, there could be economic restrictions is the utility does not show enough interest to invest in zones with a low rate of return. In these cases, the expansions need third party involvement (shared management, partnerships, etc.)
According to another ETOSS official, Engineer Martinez, the only restriction for access to service would be of a technical nature – that is the impossibility of provision to settlements that do not pertain to a grid. He emphasized the role of the Municipality to take responsibility for endorsing provision to settlements on municipal land, for example.

A key issue that emerged during the interview was that there exists different interpretation of land tenure and access to services between the regulator and the concessionaire. According to ETOSS, access to service does not need to be supported by land title; for them it is only necessary to have a certificate of domicile or the payment of another service in order to certify residence. On the other hand, Aguas Argentinas continues to insist on the possession of land title. To ETOSS, the user and not the proprietor is the client of the service. Aguas Argentinas follows the opposite.

Lascano verified the of a fund available to Aguas Argentinas for the provision of "Water and Sanitation to Impoverished Settlements." This fund was initially $400,000 USD per year, and request for increase could be made after the first year of execution. Until now, says Lascano, the company has not presented any reasonable project to expand the service to the poor settlements, as the last was unsatisfactory according to ETOSS.

In the AGBA and Azurix concessions, the chief function of ORAB is to 'police without prejudice' both contracts. In particular, "...it should consider the rights and interests of the

users, the characteristics of service and the principles of continuity, regularity, quality and universality of service provision, in accord with that put forth in the Regulatory Frame."

The Province of Buenos Aires has established another intermediate body called the Water Authority (or ADA). It is a self-governing entity that oversees all issues related to water basins in the Province of Buenos Aires. The ADA requires all work by private utilities in the province done under the collective authority of the municipality and ORAB.

The following table presents a comparison the position of land tenure in relation to the provision of water and sanitation service by the three utilities:

Table 4.2: Comparison of Land Tenure and Service Provision in the Contracts of the Three Utilities

Theme	Contract Azurix/AGBA(1)	ORAB	Contract Aguas Arg. SA	ETOSS
Who is the User?	The physical person or entity that is proprietor, owner, or shareholder of the real estate that receives or should receive service.	The physical person or entity that is proprietor, owner, or shareholder of real estate that receives or is in the condition to receive from the concessionaire the services of potable water and/or sewage in the concession zone Real User/s: Those who have the service available. Potential User/s: Those who are not currently provided service in the service area, or who are in expansion or remaining areas, and to whom the concessionaire must provide service in accordance with the obligations assumed in the concession.	The physical person or entity that receives or can receive from the concessionaire potable water and/or sewage service provision.	The proprietors and/or shareholders of the real estate that receives or is in the condition to receive from the concessionaire potable water and sewage service provision. Users are divided as follows: 1.) Users of service. Those entities whose real estate is within the Service Area. 2.) Potential Users. Those entities whose real estate is in areas that the concessionaire must provide service in accordance with the obligations assumed for the same concession.
Real Estate	All land with or without construction located in urbanized areas.	All land with or without construction located in urbanized areas in conformance with Article 6 of Law 8912.	All land with or without construction located in urbanized areas. All land of whatever nature located in the Regulated Area. Real estate connected to service: All real estate, that having at its disposition services of potable water and/or sewage from the concessionaire, was not granted the non-connection or the disconnection of service according to that stipulated in Article 10 of the Regulatory Frame. Real estate disconnected from	No explicit requirements

			service: All real estate that, having previously paid the corresponding amounts, has been granted by the concessionaire the non-connection or disconnection of service according to that stipulated in Article 10 of the Regulatory Frame.	
Those obligated to pay for service	- The proprietor or consortium of proprietors of real estate, according to the National Law 13.512, located in front of distribution pipes for potable water or collection of sewage, even when the real estate does not have a connection to the external network of service. - The owner, shareholder or usufructuary, during the period of possession or tenancy and limited only to the received services of water and sewage.	- The proprietor or consortium of proprietors of real estate, according to the National Law 13.512, located in front of distribution pipes for potable water or collection of sewage, even when the real estate does not have a connection to the external network of service. - The owner, shareholder or usufructuary, during the period of possession or tenancy and limited only to the received services of water and sewage.	The proprietor or consortium of proprietors according to Law 13.512, owner, or shareholder.	The User
Documentation required for the process	No explicit requirement	Document of identification, title of property that proves your rights to the real estate and plan for installation indicating the location.	No explicit requirement	There are no explicit requirements in the case of requests for service from informal settlements. There are requirements if it is done through a series of processes (change of title, claims, etc.) that imply a level of formality in relation to gaining land title.
Exemptions and subsidies	Informal settlements are not considered	Informal settlements are not considered	Informal settlements are not considered	Informal settlements are not considered
Occupied municipal land	Not considered	Not considered	Not considered	Not considered
Occupied private land	Not considered	Not considered	Not considered	Not considered

Note: (1) The cases of the utilities AGBA y Azurix are presented in the same column as both contracts establish the same criteria regarding the themes selected.

Reflections on Where the Problem Lies

The concession contracts of Aguas Argentinas, AGBA and Azurix all provide for universal coverage and do not contain legal obstacles to the inclusion of residents of informal settlements. In fact, the utilities have an obligation to consider informal settlements in the expansion of the system. The legal frame does not exclude informal settlements from access to services. Yet informal settlements face enormous difficulties, and it is not uncommon to find cases of applications for connections involving delays of up to 30 years. The question begging answers thus is on where the problem lies – how can poor communities gain access to water and sanitation services. A number of issues emerge on this account:

Methods of expansion may be driven more by profits, rather than service extension and delivery of rights.

As private companies are profit-driven, there appear little incentives to expand the infrastructure to impoverished settlements. Extensions to these neighbourhoods that are typically far from existing infrastructure naturally result in more costly connections. Many times, the topography is not conducive, and the rate of return is usually lower than that from less poor areas. Some questions may be asked. Should government provide some subsidies for extension to poorer communities in more difficult-to-reach areas? Should residents of these communities be asked to bear a share of the burden of higher costs? What means may be used to bring connection costs to a minimum? And most importantly, what level of priority should be given to such communities – i.e. should connections come at the beginning rather than the end of the 30-year concession contracts?

As such, while there are clear economic (low profits and high investments) and technical (distance, unsuitable topography) reasons that make delivery of services to poor communities more difficult, the core issue would be on who (state, business or civil society) should take responsibility for such expansion.

Expansion targets and criteria used for their approval are not in the public domain.

The expansion targets of the companies, in particular whether they are planning to expand the service to the poor communities, are not in the public domain. Neither is the criteria used by the regulators in approving these targets. This means company officials exercise a great deal of discretion on how they would comply would the universal coverage obligations of their contract. They may decide to extend the service to some selected pilot or ‘showcase’ communities, and then delay expansion until the end of the 30-year concession in most other impoverished settlements. This situation is compounded by the lack of formal representation or voice within the Regulatory Office by users, impoverished sectors, and NGOs that work with these populations. The municipalities of the metropolitan area, however, do participate and are the ones who can apply pressure so that expansion plans will include informal settlements.

It would be in the interests of poor communities if a complete evaluation to verify the level of compliance with approved expansion plans is made. These should be broken down into specific targets into the five-year plans submitted by the concessionaires which are approved by the Regulators. Concessionaires should also prepare consultations with the users and municipal authorities on these expansion issues.

Administrative procedures used for connecting impoverished communities do not consider their particular conditions, and are based on transactions in regular, formal neighbourhoods.

Legal obstacles should not exist in the access of water and sanitation services. As shown by Table 4.2, a connection is a contract signed between the company and a user – "the physical person or entity that is the proprietor, owner or shareholder of the real estate that receives or should receive a service". Real estate is defined as 'land' – not structures or houses in which people live. This effectively excludes informal residences – the majority of the poor – from qualifying as 'users' who can enter into a contract with the company for a connection. Billing systems are another example – they are based on fixed, registered addresses, and are inappropriate for communities built after land invasions. In all, the 'system' has built-in mechanisms that work against the interests of the poor.

Recently, company bureaucracies also tend to discourage demands for service from individual households and encourage access through public-private associations.

The role of the state where private sector operation and control of services exist has become unclear, and responsibilities are diffused that who exactly is accountable becomes difficult to establish.

In most cases, the regulator assumes much of the responsibilities of the state to ensure the rights of citizens to access services. But as shown by the lack of discussions within the same Etoss organization an and the absence of representatives of the poor beneficiaries we can conclude that regulators are weak and are unable to respond to the demand from impoverished settlements with an urgency that is reflective of the poor's precarious living conditions.

To sum up, the rights of poor, informal settlers to access water and sanitation services – which are guaranteed by laws and other legal instruments -- may only be enjoyed only when the following issues are effectively addressed:

- Economic and technical problems related to service expansion
- Expansion targets are placed on the public domain and are managed in a more transparent process
- Administrative procedures are made flexible to adapt to local conditions in impoverished communities.
- The roles and responsibilities of the state, along with the other stakeholders, are made clear and followed.

5. Conclusions

This report is an investigation into the links between land tenure and the access to water and sanitation services in Buenos Aires. The approach adopted was to first look closely at the life stories of three women community leaders in informal settlements. The idea behind this approach was that it potentially offers a 'front-row' view of what poor people and residents of informal settlements actually go through when being without land tenure and having to struggle for water and sewage connections. Understanding this experience becomes much important now that the Argentina has given private companies operation and control of water and sanitation utilities.

A study of land laws and the regularisation of illegal land was then undertaken, followed by an analysis of the legal issues around the concession contracts of the three private water companies. The general conclusion that emerges from this study is a paradox – the lack of land tenure is a serious problem that excludes residents of poor, informal settlements from accessing water and sanitation services, yet there is no provision in the law that this should be so. In fact, the law and various legal documents, including the concession contracts, uphold the rights of the poor to access the services. More so, the law and the contracts impose clear and specific obligations on the private water utilities and various institutions of government to deliver these rights.

Land tenure is not a legal impediment to the provision of services, but it is used as a reason for the scant service expansion to poor settlements. Over time and successive contract renegotiations, the concept of universal coverage as laid out in the original concession contract, was left to the wayside. Even if there have been a significant number of cases of service provision to settlements without land tenure, the majority of requests for sanitation services from these locations have been denied by the utility primarily due to the lack of land tenure, among other reasons, such as:

- distance between informal settlements and existing networks,
- irregular urban layout that characterises the settlements,
- cost of construction in zones below the water table restriction,
- lack of confidence in the recuperation of costs and payment for services.

As such, there is little commitment and progress in delivering the service to poor communities in Buenos Aires. Physical and technical problems are not that big a problem as the private sector paints it to be. For instance, network expansion is considerably reducing distances between served zones and informal settlements. The key is whether informal settlements will be prioritised in expansion plans. This is seen most clearly in Cristina's story, where a water mains was located just 200 meters from their community. It was only out of their campaigning and pressure that regular connections – which they offered to pay for – were installed.

Expansion plans are not on the public domain. Barrio San Martin has been in existence for nearly 20 years and its residents have invested and done much to make it a more habitable place. But until today, they have not been expansion plans, despite the vigorous lobbying of Elisa. Moreover, the regulator has not done much to open up transparency on expansion plans. This leaves great discretion on the part of the companies on when and how they will expand to the poor settlements – they can do it next year, or do it at the end of the 30-year concession contract (if only to exaggerate).

The irregular design of informal settlements is also presented as a technical problem. Yet it is quite clear that a large majority of these settlements have a structure of blocks and lots

that, while not traditional, does follow its own pattern. These settlements have public ways of circulation that permit the provision of infrastructure to individual homes; otherwise, how could people move around? This 'pattern' is not the type learned in engineering schools and universities – rather it is the type that is learned by ingenious, crafty people making full use of the resources and space available to them while improvising and innovating every step of the way. Many of these informal communities are in precarious conditions, like they are on land that is prone to flooding and which makes excavation and sewage difficult. Nevertheless, the experiences realized through alliances and partnerships[16] show that the communities are willing to contribute to the reduction of the cost of work. As a virtue of the community and government contribution, the cost of construction work in informal settlements is less than in neighbourhoods where work is done in a conventional manner.

Perhaps the final issue why the poor in informal settlements remain generally unserved is that they are seen as having a the culture of "non-payment for services." What is not seen is that the so-called non-payment is historically associated with "non-provision of services." In other words, given the refusal of the public utilities to provide services to informal settlements, these populations connected themselves (illegally), especially in the case of electricity. Elisa tells of how they illegally opened a fire hydrant when Cocarsa shut down their water connection. "Give us legal connections," she said, and "we will pay. We are not asking to give us water for free, we are asking you to deliver us a service we will pay for." Studies in developing countries have shown that the poor actually pay more for their water. This brings another paradox – that those who have less in life are actually willing to pay more for their water.

Also, the behaviour of non-payment should also be evaluated against how it was supported, and even promoted, by political manipulation for obtaining partisan returns. Even the companies themselves can take a share of the blame, as they in a way tolerated the situation. The penalization of non-payment of bills[17] was never supported by the government for fear of political costs, or by companies for fear of a bad public image, as a result of leaving low-income families "without water".

In the end, the lack of land tenure by occupants of informal settlements is simply used as one of the most effective arguments for dissuading civil society groups from their attempts to extend services to poor urban populations.

So the real issue is -- where does the problem lie? Why are the poor residents of informal settlements generally unable to access water and sanitation service? This study suggest the following answers (not necessarily in order of importance):

- *There is a nearly exclusive economic vision of the provision of services*. Not only the concessionaires, but also the regulatory bodies evaluate the problems primarily in economic and financial terms. Hence, it was only after intense public pressure that the idea of social tariff has progressed in the last few years. No similar progress has been achieved towards including the illegal sector in formal access of services.

- *A fragmented institutional frame.* Within each and every level of government, including the regulators, there is duplication of functions in planning, land use

[16] McGranahan, Gordon y otros. Providing water and sanitation through public-private-community collaboration: the experiences of four low-income barrios in Buenos Aires (mimeo 2001). IIED-Al/WEDEC/DFID.
BPD , Flexibility by design: Lessons from Multi-Sector Partnerships in Water and Sanitation Projects.
[17] Ibid.

regulation and provision of services. The result is fragmented, sometimes conflicting response on the part of public authorities in dealing with the issues.

- *A limited vision of the role which civil society organisation can play.* The government and the utilities generally consider civil society organisation as 'secondary'. On one hand, the government considers them as mere recipients of political decisions. On the other, utilities see them as mere arms – voluntary organisations that are expected to assist and participate in the delivery of services. Civil society organisations are generally not considered as possible participants in the planning and design of expansion, neither in the regulatory agency, nor in the user commissions. This results in failure to make full use of their potentials.

This overall frame leads to other many other problems. For instance, standards for the formal city are used and applied inappropriately for the informal settlements. Plots in informal settlements would not meet the requirement that residential plots should be 300 square metres or more, and having direct facing to circulating streets with at least 12 meters. As a result, there is an abysmal difference between the benefits and opportunities available to one group versus the other. Standards for the formal city were made based on a model of what a city should be. "Standards" in informal settlements evolve from sheer practice.

Also, this leads to administrative processes that discriminate against the poor. For instance, invoicing and charging for services requires the identification of the address of the user, the location of the real estate, and the certificate and nomenclature of registered property. This effectively excludes residents of informal settlements, even if they are willing to pay for the service.

What then could be a response to these problems? The experience of Joveli, Elisa and Cristina suggests that sustained civil society action is the crucial guarantee for informal settlements to gain access to water and sanitation services. Their experiences confirm the conclusions of an earlier study undertaken by IIED-AL for WEDC [18]

- *Piped water and sanitation provision can contribute to housing security.* The lobbying that the three women to get piped water was in their own interests, since piped connections provide added security to their housing situation. In the case of many undocumented settlers, a piped connection means more than just access to the service -- is an acknowledgement that they actually exist.

- *Privatisation, does not, in itself, depoliticise water and sanitation provision.* In fact, as Elisa's experience shows, the take over by a private company merely changed the politics of delivery – more people to talk to and lobby, more decision-makers to convince.

- *Civil society organisations can help to make public-private partnerships work for the poor.* Elisa, Joveli and Cristina set up community organisations that were instrumental in consolidating the community, making people informed and in dealing with the companies and the municipal governments.

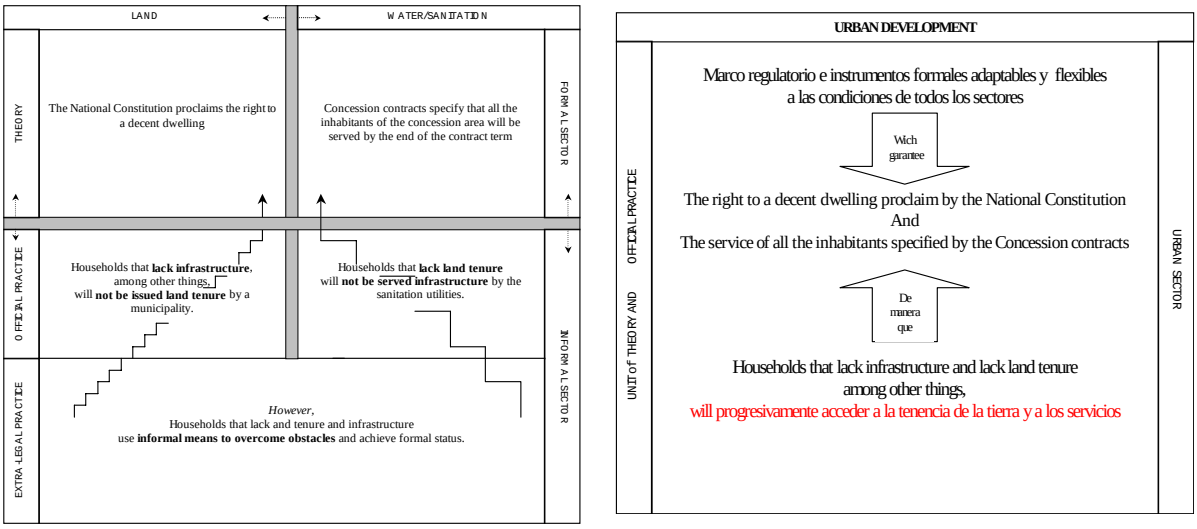
- *Pro-poor negotiations are important after as well as before the concession agreements has been signed.* This study shows that all the legal documents, including the contract,

[18] Ver "Provision de Agua y Saneamiento: la expetriencia de cuatro barrios informales en Buenos Aires" R. Schusterman and others. Revista de Medio Ambiente y Urbanizacion, Año 18, N. 57. Buenos Aires

provide for universal coverage. Yet the poor are still not better off. Continued negotiations are crucial, especially on the details of expansion plans.

- *Providing water and sanitation connections is not sufficient to ensure a sustainable supply of water to low income residents.* There are still larger problems of urban development to contend with

The question is how to modify these circumstances, how to close the gaps that can be so wide between what the formal practice demands and what is possible for informal practice to offer. Essentially, the objective is "the inclusion of the excluded in urban regulation." The following diagram presents the continuation intended to reflect a possible model of inclusion that could overcome the existing barriers.



We consider as fundamental the defense of a integrated urban development policy, coordinated with the provinces and municipalities, and pertaining to regulatory instruments and sufficient budgets to assure their appropriate implementation. This policy must consider a process by which the extra-legal city can be gradually incorporated into the means and standards considered as appropriate for the formal city.

Referring specifically to services, in order to achieve this new reality it is necessary to advance with new studies and actions that consider illegal situations, incorporate all the affected actors and consider the following:

- Installation of the theme in the public sphere,
- Improved mechanisms of regulation of private utilities,
- Incorporation of local officials in the approval of expansion plans for public services,

- Implementation of actions that guarantee the participation of CBOs and NGOs in planning, regulation, and control of actions related to urban development,
- Consideration of OCBs in regards to the transfer of knowledge, and instruments and methodologies for enabling them a better means of defending their rights.

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