

UNIVERSAL PERIOD REVIEW – 4TH CYCLE

CONTRIBUTION TO ARGENTINA'S REVIEW

Adjustment policies, fiscal policy and foreign debt

Civil society report produced jointly by the Center for Legal and Social Studies (CELS)¹, Asociación Civil por la Igualdad y la Justicia (ACIJ)², Centro de Economía Política Argentina (CEPA)³, Coordinadora de Abogadxs de Interés Público (CAIP)⁴

I. Socioeconomic context

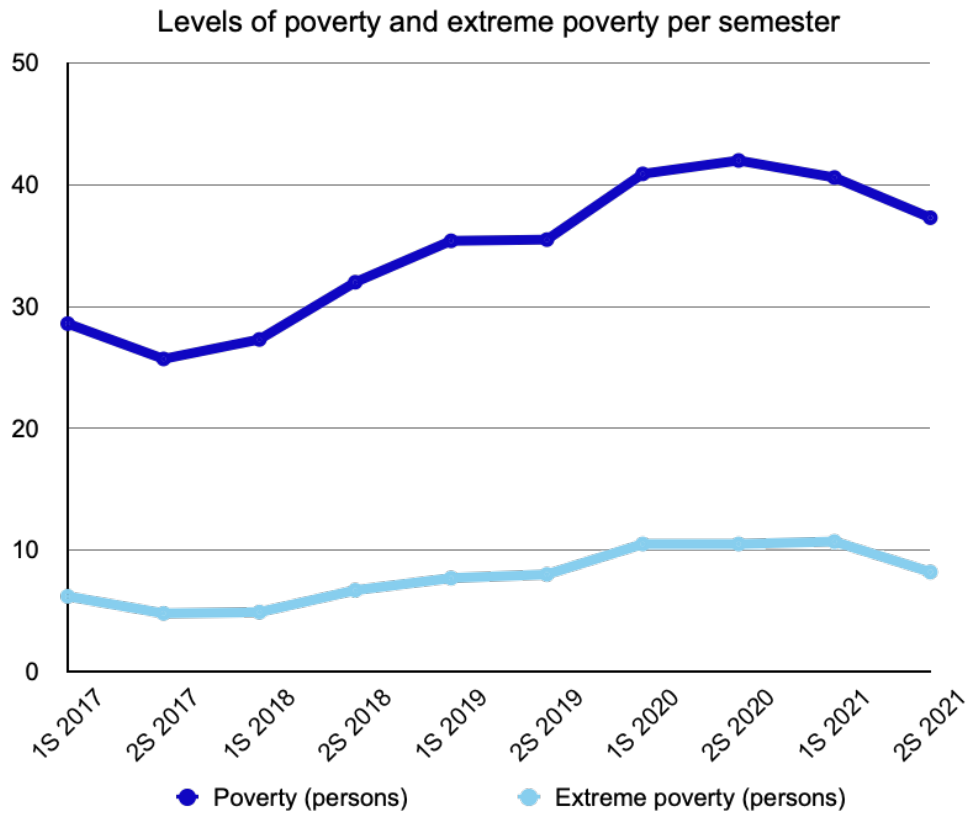
1. Living conditions for Argentines in general have declined in the past five years. This especially affects the most vulnerable sectors. The causes of this decline are multiple: the application of neoliberal policies including adjustments in basic social protection policies, irresponsible indebtedness and the aggravating factor of the pandemic, just to name a few. In this report, we lay out the data reflecting these factors and why they constitute violations of human rights agreements signed by Argentina.
2. Social conditions deteriorated significantly between 2018 and 2019: GDP fell by 4.6%, unemployment rose to 10% and real wages fell by 15% compared to 2017. At the time of Argentina's last Universal Periodic Review, 25% of the population was living below the poverty line. That percentage grew during the 2017-2020 period to over 40%. Even though the data from the last year show a decline in poverty and extreme poverty (37.3% and 8.2%, respectively), the numbers continue to raise concern.

¹ The Center for Legal and Social Studies (CELS) is a non-governmental organization working since 1979 to promote and protect human rights and to strengthen democracy in Argentina. The institution's main objectives are aimed at: denouncing human rights violations; advocating in the process of public-policy formulation based on respect for fundamental rights; promoting legal and institutional reforms intended to improve the quality of democratic institutions and promote the greatest exercise of these rights for the most unprotected sectors of society.

² ACIJ is an Argentinian civil society organization working to promote and defend progressive compliance with economic and social rights through different channels including strategic litigation, budget analysis and transparency.

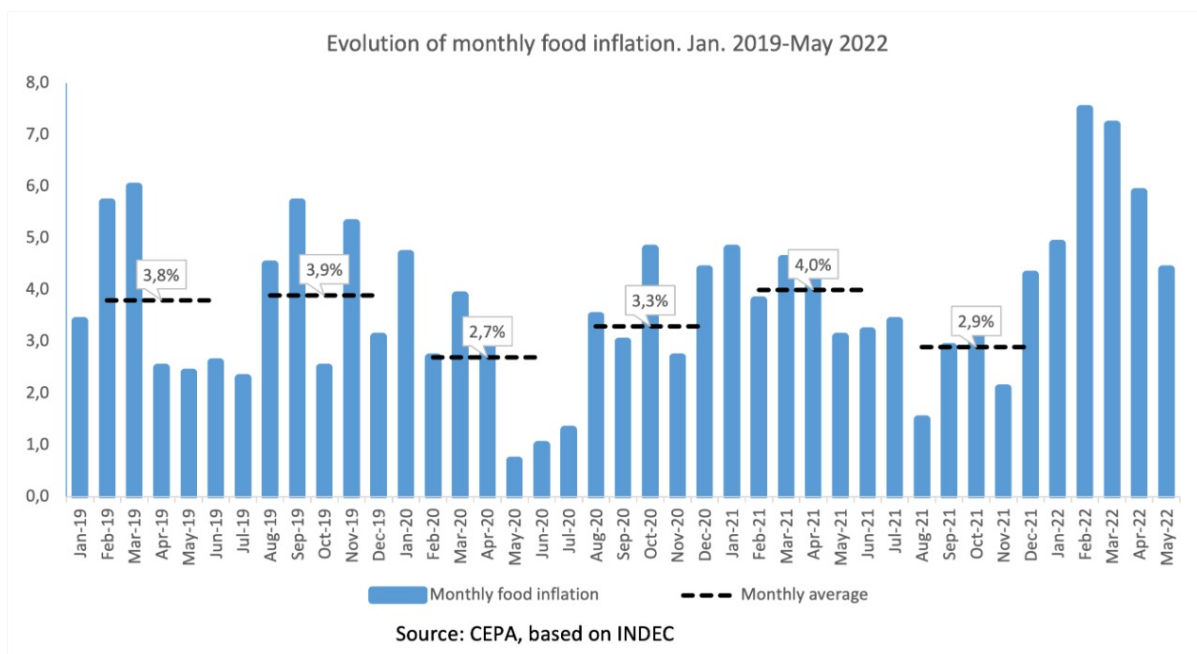
³ El Centro de Economía Política Argentina (CEPA) was created in 2012 with the objective of intervening in complex economic debates, producing reports, studies and technically rigorous academic work in language that is accessible to the general public, in an effort to democratize public comprehension of the social-political disputes that emerge in relation to economic bids.

⁴ A collective network of lawyers. We cooperate on actions and strategies to defend cases of public interest.



Authors, based on INDEC data

- Poverty in Argentina is measured by two baskets of products: the basic food basket (which determines the extreme poverty line) and the total basic basket (also includes non-food goods and services and determines the poverty line). In both cases, food is a fundamental element in the composition of these baskets, so rising food prices influence the amount in each basket and thus both poverty and extreme poverty. During the second semester of 2021, food prices grew below the rate of inflation. It is likely that this contributed to the reduction in poverty in that period. However, during the first semester of 2022, food prices rose higher than inflation, meaning the two baskets also rose beyond the rate of inflation. For this reason, poverty data for this period will not likely maintain the reduction in poverty.



4. Children and adolescents are especially affected by poverty. According to the latest data available, 51.4% of children under the age of 14 are poor.

Population by age group according to level of poverty. Second semester 2021					
Age group	total	Poor			Non-poor
		Extreme poor	Non-extreme	Total poor	
%					
Total	100,0	8,2	29,0	37,3	62,7
0-14	100,0	12,6	38,8	51,4	48,6
15-29	100,0	10,4	33,8	44,2	55,8
30-64	100,0	6,7	25,9	32,6	67,4
65 and more	100,0	0,7	12,3	13,0	87,0

Note: In some cases, the sum of percentages may not coincide with the total percentage, due to the fact that the values are rounded to a decimal.

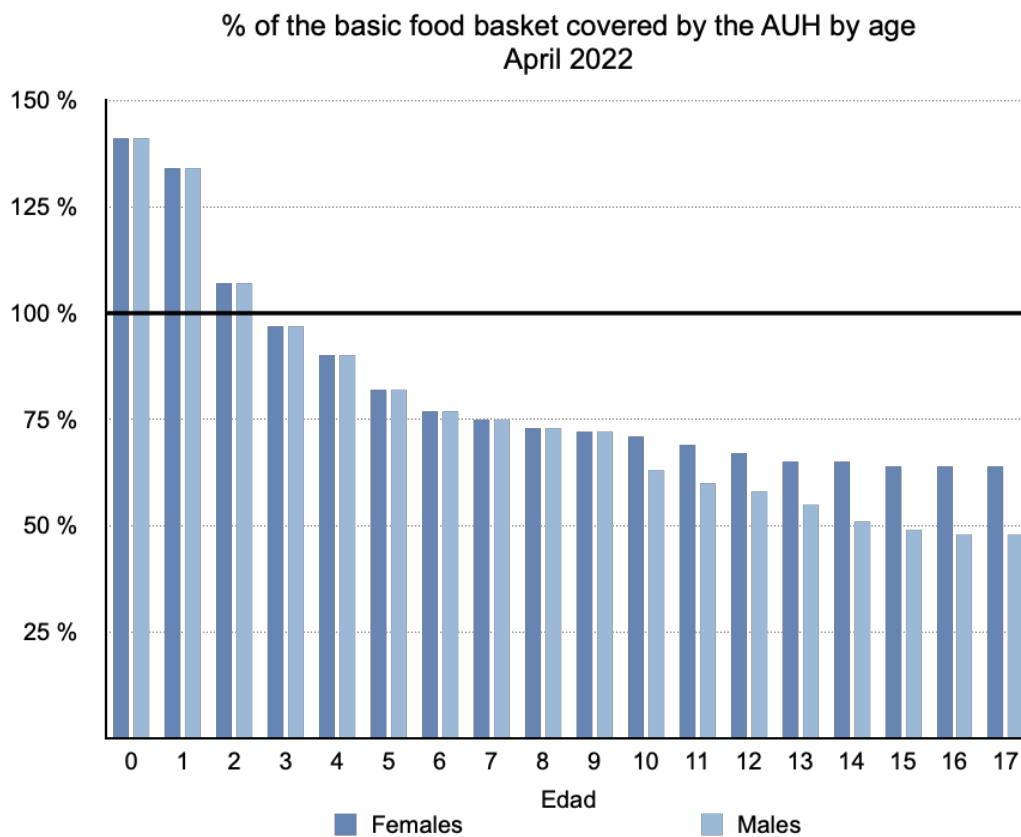
Source: INDEC, Office of Permanent Survey of Homes

5. According to data collected by the Ministry of Public Works based on the UNICEF methodology for measuring multidimensional non-monetary poverty, 5% of households in Argentina experience severe deprivations (deprivations in at least four of the dimensions surveyed) and 51.8% have moderate deprivations. These percentages are greater in single-parent homes with female head-of-household (6.4% and 55.9%) and in homes with children (8.8% and 59.7%).⁵
6. In the first semester of 2020, the highest percentage of severe deprivations (four or more dimensions) was registered in homes with children and/or adolescents (8.8%),

⁵ Infraestructura del cuidado. Aporte para la toma de decisiones: obras públicas, género y niñez: Documento de trabajo N°1 de la Dirección Nacional de Transparencia de la Secretaría de Gestión Administrativa del Ministerio de Obras Públicas / Roxana Mazzola, Berenice Rubio, Agustina Coll and Guillermina Comas; directed by Roxana Mazzola. - 1a ed. - Buenos Aires: Ministerio de Obras Públicas, 2021

above the total household average (5%).

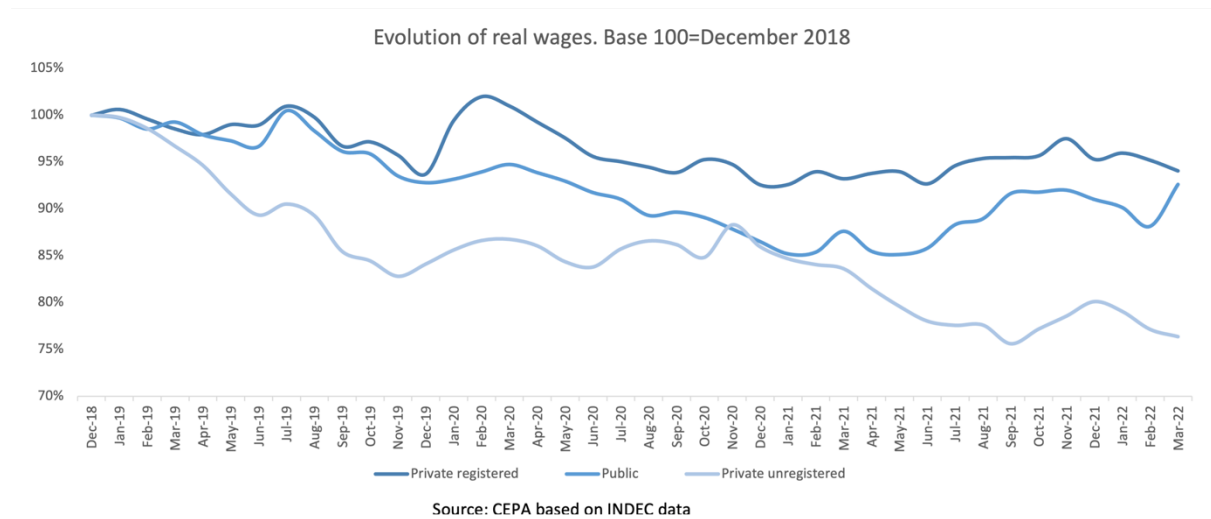
7. In the case of children and adolescents, the main assistance policy by the Argentina State is the Universal Child Allowance program (AUH, acronym in Spanish). According to the latest data (December 2021), there are 4,373,733 beneficiaries of AUH (this number includes children who receive the AUH and allowance for children with disabilities, which has no age limit). In March 2022, the overall value of the AUH was \$6,874 pesos. If we consider the cost of the basic food basket for that month estimated by INDEC, this amount only covers 100% of the needs of children aged 0-3 and only 48% of the needs of a 16-year-old as indicated in the table above. The amounts of the AUH show a slight improvement of 2.5% in real terms compared to the average for the allowance during the first semester of 2021. We reiterate the need to continue expanding coverage by the AUH as was recommended to the State during the last Universal Periodic Review: “Intensify efforts for children and adolescents throughout the country to be able to enjoy social rights on equal footing” and “continue expanding coverage by the family allowance plan per child and incorporate the huge number of children and adolescents entitled to inclusion in the plan, particularly those from marginalized groups and undocumented children.”⁶



Authors, based on INDEC data

⁶ See A/HRC/37/5, recommendations 107.157 and 107.158 respectively

8. In addition to an increase in poverty, there is an increase in inequality of income: the wealthiest 20% accumulate nearly 50% of total income, while more than 40% live in poverty and accumulate just 15% of total income.⁷ Although there is no precise information on the distribution of assets (real estate, vehicles, etc.), the Inter-American Center of Tax Administrations⁸ indicates that the high concentration of assets in Latin America and the Caribbean, compared to other regions, allows us to infer that the concentration of wealth must be pronounced. At the same time, the people with high assets in Latin America possess the greatest proportion of assets compared to high-asset holders anywhere else in the world (32.9%). Paradoxically, Latin America is the region with the lowest taxation of assets or wealth.
9. Since 2015, there has been a sustained reduction in the purchasing power of wages. Before the pandemic, between 2015-2019, the overall loss in purchasing power of all wages rose to 16.7% and the number of workers registered in the private sector declined by 230,264. The pandemic worsened the situation since many of the measures taken by the government to reduce contagion involved strict confinements that aggravated the economic situation. And while economic activity is in recovery and has surpassed pre-pandemic levels, it has still not surpassed pre-2018 levels (the year when the economic crisis intensified during the previous government). In addition, there is a notable disconnection between registered wages, which have recovered nearly completely, and wages of unregistered workers.



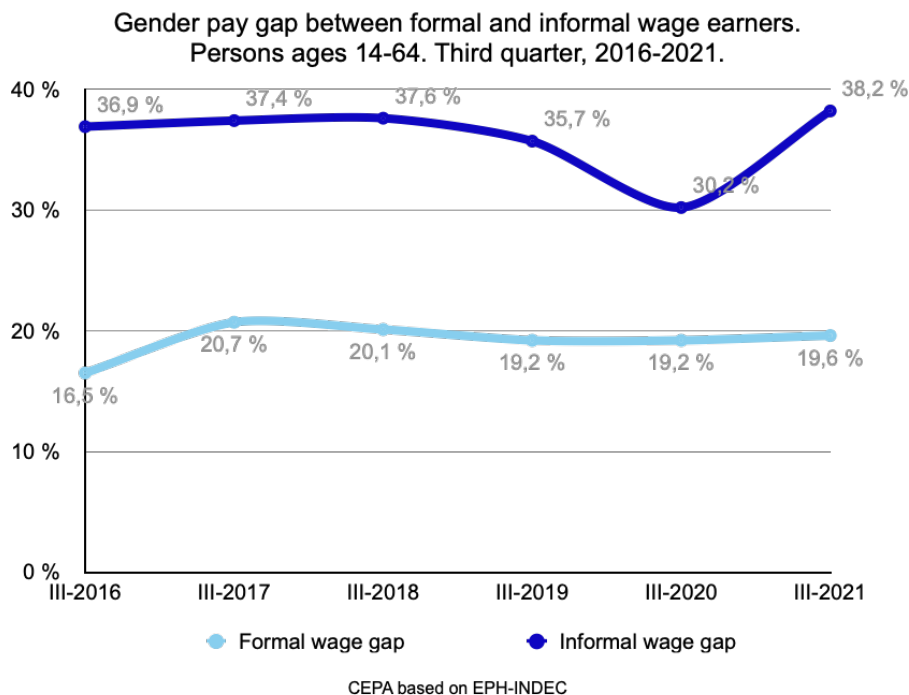
10. This is especially relevant in a context where 30.6% of men and 36% of women are not registered. The difference in levels of formal employment between men and women also increased in recent years, rising by 1.8 points to 5.4 percentage points. The gender income gaps are also greater for unregistered women.⁹ In the world of registered

⁷ INDEC, Evolution of income distribution (EPH). Fourth quarter 2021
https://www.indec.gob.ar/uploads/informesdeprensa/ingresos_4trim2124EA305449.pdf

⁸ CIAT. Impuestos a la Riqueza o al Patrimonio de las Personas Físicas con especial mención a América Latina y El Caribe. 2018.
https://www.ciat.org/Biblioteca/DocumentosdeTrabajo/2018/DT_01_2018_benitez_velayos.pdf

⁹ Centro de Economía Política Argentina (CEPA). *El 8M en perspectiva económica: A dos años de pandemia y con la igualdad como meta*. March 8, 2022

workers, men earn 19.6% more than women. Among informal workers, men earn 38.2% more. This is the largest difference registered in the last five years.



11. Reducing informal employment and in particular improving the labor conditions for women are part of the commitments assumed under Articles 6 and 7 of the ICESCR and part of the recommendations in the last evaluation by the Committee on Economic Social and Cultural Rights (CESCR) recommending that the State adopt concrete measures to reduce unemployment, with particular attention to women, youth and people living in rural areas, and assess the impact of structural adjustment measures on employment.¹⁰
12. In addition to working in more precarious conditions, most unpaid work of caring for children and older adults falls to women. Four of every ten homes in Argentina has a female head-of-household. The questionnaire on unpaid domestic work by INDEC indicates that women devote an average 6.4 hours per day to domestic work, while men put in 3.4 hours a day. That difference increases in homes with children under age 6. This situation is aggravated by the fact that more than 80% of all children do not attend a childcare center before age 2.¹¹ We must continue to invest toward creating a public, integrated system of care in line with CESCR recommendations.¹²

II. Key budgets less progressive, more regressive

¹⁰ See E/C.12/ARG/CO/4, recommendation 32.

¹¹ Infraestructura del cuidado. Aporte para la toma de decisiones: obras públicas, género y niñez: Documento de trabajo N°1 de la Dirección Nacional de Transparencia de la Secretaría de Gestión Administrativa del Ministerio de Obras Públicas / Roxana Mazzola, Berenice Rubio, Agustina Coll and Guillermina Comas; directed by Roxana Mazzola. - 1a ed. - Buenos Aires: Ministerio de Obras Públicas, 2021

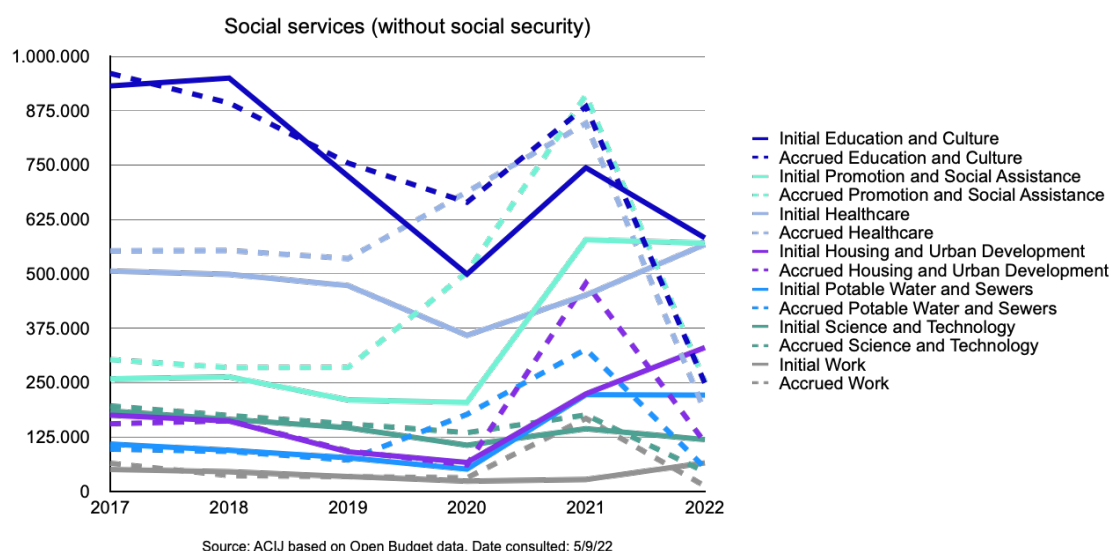
¹² See E/C.12/ARG/CO/4, recommendation 29.

13. In the 2017-2022 period there were significant fluctuations in spending on public services. Part of this decline is a consequence of the fiscal adjustment required by the IMF as part of the 2018 loan agreement. That adjustment in real terms meant that, between 2018 and 2019, public spending on health fell by 21%, on education by 36%, water and sewerage by 39% and housing, 59%.¹³ All of this happened even though the agreement set forth “specific measures for supporting the most vulnerable segments of the population and addressing gender inequalities.”
14. That same year the **ESCR Committee expressed its concern over the fact that “in the framework of the agreement with the International Monetary Fund, the government is forecasting a zero-deficit objective for 2019, tightening social spending cuts.”**¹⁴ It is important to underline that the constitutional reform in 1994 conferred constitutional rank to diverse international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights, and established that these treaties should be understood as complementary to the rights guaranteed under Argentina’s Constitution.
15. The 2017-2022 period has the particularity of including two budget extensions – as a result of the non-approval by Congress of the budget bills sent by the Executive Branch in 2019 and 2022 – and the extraordinary situation of the pandemic that forced States to redirect their resources. The extensions would explain the drops in the national budget in real terms in 2020 and 2022.
16. In particular, an analysis of the line items for 2022 shows that nearly all initial budget allowances equal the credit in force in 2021 in nominal values, even with 50.9% inflation in 2021. However, the Law of Financial Administration establishes that in these circumstances, the Executive Branch must include “the indispensable budget credits to ensure the continuity and efficiency of services” (Art. 27.2), which was why it was concerning that, when it assigned the operating budget for 2022, the Executive Branch did not take into account the price increases from the previous year. By the middle of the year and with cumulative inflation between January and May of 29.3%, the Executive Branch modified the budget through Necessity and Urgency Decree 331/2022, increasing total resources by 52.43% in nominal values. However, the distribution of the reallocation is not the same for all items. As an example, while Basic Statistics and Information got an increase of 288.30% over the initial allowance for 2022, the allocation for Work saw a reduction of 44.93%. There needs to be analysis of the new allocation of items aimed at key policies for guaranteeing the rights of vulnerable groups. Not updating these budget items for inflation would go against the obligation to be progressive and not regressive in compliance with ESCR.
17. If we analyze accrued expenditure by purpose, we see an increase in the weight of the public debt between 2017-2019 (when it reached 19.69% of total spending) and since 2020, an increase in share of social and economic services and a fall in public debt. Social services reached their maximum share (67.34%) in the first year of the pandemic, and economic services (which include Energy, fuel and mining and Transport, mainly)

¹³ Bohoslavsky, Juan Pablo and Cantamutto, Francisco, *FMI, neoliberalismo y derechos humanos. Argentina en el macroscopio*. In: Edición especial Fondo Monetario Internacional. Bohoslavsky, Juan Pablo and Cantamutto, Francisco (Eds.). *Revista de Derechos en Acción*. Año 6 N° 18 Verano 2020 - 2021

¹⁴ See E/C.12/ARG/CO/4

show a growth trend since 2019. For 2022 an amount equivalent to 18.62% of total spending on economic services was budgeted, putting it 6.65 percentage points above what it represented in 2019 and an amount equivalent to 7.20% in public debt, 12.49 p.p. below what it represented in 2019.



18. Budget cuts go against the ESCR Committee's recommendations to approve and implement the national budget, avoid regressive measures, and ensure budget line items related to social investment in disadvantaged groups.¹⁵

III. Regressive taxation

19. **The Argentine tax system is unfair** because the vulnerable sectors contribute proportionately more than the wealthy. This is mainly due to the heavy taxation on goods and services consumption, the extremely low taxation of personal property and unjustified tax exemptions: **the tax on personal property assets amounted to just 2.53% of total tax revenue in 2021, while the VAT on consumption contributed 29.47%**. The lost revenue attributable to tax exemptions (such as tax privileges for judges and mining companies) is estimated to have reached the equivalent of 2.67% of GDP. And while there has been a push in recent years for redistributive policies, they have not been sufficient to reverse the regressive trend of taxation in Argentina. One of them was the extraordinary contribution of great wealth, an exceptional tax on the wealthiest people in the country to raise funds to address with the consequences of the pandemic. Although this was an essentially redistributive measure, it was approved to be in force only in extraordinary circumstances and did not considerably impact the regressive nature of the system; it was used strictly to cover the costs of the health emergency caused by COVID-19 (medical equipment, subsidies to small enterprises, the natural gas industry, socio-urban integration, school completion scholarships).

20. Moreover, the legislation regulating the institute of financial secrecy¹⁶ preexists the enforcement of paradigms of transparency and access to public information. This lack of harmonization has been overcome in some cases through administrative or judicial rulings that have set limits on fiscal secrecy in the case of tax expenditures, and their

¹⁵ See E/C.12/ARG/CO/4 recommendation 6

¹⁶ Article 101 of Tax Procedure Law N° 11.683.

scope when it comes to the right to access public information, but its implementation is still pending. The Federal Administration of Public Revenue (AFIP) applies fiscal secrecy in discriminatory fashion: the basic information on beneficiaries of tax expenditures is secret, while information on anyone receiving transfers from the State is public. Debate is needed on the limitations on oversight bodies themselves in terms of access to financial and fiscal information online in view of the recommendations by the ESCR Committee.¹⁷

21. Argentina presents serious challenges when it comes reducing tax elusion and evasion and this deepens wealth concentration and capital flight. In 2021, the results of a global report were published by the International Consortium of Investigative Journalists that revealed banking secrets in some of the world's main fiscal paradises. Argentina, although it is ranked No. 31 among world economies, comes in at No. 3 among countries with the greatest number of persons benefiting from offshore companies in this publication of nearly 12 million documents about fiscal paradises. This data is evidence of a prolonged practice of tax elusion and evasion among the economic and political elite of our country, while at the same time showing an evident lack of state mechanisms to prevent it.
22. According to [data for 2020 by the Global Alliance for Tax Justice](#), Argentina loses around 2.684 billion dollars annually due to illicit financial flows produced by tax elusion and evasion by people and companies who transfer their earnings to fiscal paradises. This amount represents 2.9% of the budget for social services and 31.7% of the healthcare budget. Overall, 2.341 billion dollars correspond to multinational and Argentinian companies with offshore companies; and the rest to people who hide their undeclared income abroad and pay fewer taxes than they should.

IV. The debt problem

23. As part of the Stand-By Arrangement Argentina signed with the IMF in June 2018, the IMF transferred some 44.5 billion dollars, equivalent to 10% of GDP and close to 1000% of Argentina's quota in the organization, making it the largest loan ever granted to a country in IMF history. This new agreement was reached in the context of acceleration of the foreign debt cycle, in which public and private debt increased by 260% and 130%, respectively, between 2016 and mid-2018.¹⁸ In addition to growing, the debt composition worsened – the proportion of securities held in foreign currency increased while the average life of loans diminished.¹⁹

¹⁷ See E/C.12/ARG/CO/4 recommendation 28.

¹⁸ Lampa, Roberto and Zeolla, Nicolás Hernán, *Argentina 2015 - 2018: un ciclo corto de crecimiento impulsado por las finanzas*. Voces en el Fénix. N°78. January 2019. Available at: <https://vocesenelfenix.economicas.uba.ar/argentina-2015-18-un-ciclo-corto-de-crecimiento-impulsado-por-las-finanzas/>

¹⁹ Nemiña, Pablo and Val, María Emilia. *La renegociación de la deuda Argentina durante la pandemia COVID-19: Implicancias y perspectivas para los países en desarrollo*. Fundación Carolina, Documentos de Trabajo 38/2020. Available at: https://www.fundacioncarolina.es/wp-content/uploads/2020/11/DT_FC_38.pdf

24. The exceptional nature of the loan in terms of its volume and disproportion with regard to Argentina's quota in the IMF was politically motivated. **The agreement with the IMF was intended to sustain the government of former president Mauricio Macri, who was implementing a neoliberal adjustment plan, and to ensure his reelection.**²⁰ The agreement included numerous conditionalities, such as reducing the fiscal deficit to zero in two years. These measures had tangible negative consequences on the human rights of the population that were covered in previous sections.
25. It should be noted that **the 2018 agreement failed even according to the IMF's own parameters.** According to an ex post evaluation of the agreement by IMF staff in December 2021, the agreement did not manage to correct the macroeconomic and structural imbalances or improve market confidence. Despite the size of the IMF loan, Argentina still had to resort to external markets to refinance its debt at increasing interest rates until access to the markets closed in August 2019. The ex post study further concluded that sufficient measures were not taken to reduce capital flight.²¹
26. Despite this, the IMF took no responsibility for the program's failure. **The deficits revealed in the IMF's evaluation of the situation in Argentina in 2018 go against the IMF's Articles of Agreement and therefore the loan agreement could be considered an ultra vires act.**²² Following the IMF manual, it was impossible for Argentina's debt to be considered sustainable. It was reasonably foreseeable that the loan schedule was going to increase the imbalance in the balance of payments, in part because effective measures were not put in place for managing capital flight (requirements that the Fund must include according to its mandate).
27. **Capital flight** was especially severe throughout the duration of the agreement. According to data from the Argentinian Central Bank, in the 2015-2019 period the country's reserves (including the IMF loan amount) suffered capital flight of 45 billion USD for the private sector, 11.5 billion in speculation and nearly 37 million in public and private debt payments.²³

V. The illegalities of the 2018 Stand-By Arrangement

28. The Stand-By Arrangement signed in 2018 had numerous legal defects in origin and procedure. In 2018 the Coordinadora de Abogados de Interés Público (CAIP) began working jointly with the Movimiento Nacional de Empresas Recuperadas (MNER) and the Centro de Estudios Estratégicos para la Integración Financiera (CIFIN) with the initial objective of obtaining public information regarding the legal and procedural conditions under which the IMF loan was taken, and later led to the proposal of a judicial discussion aimed at having the agreement declared null and void.²⁴

²⁰ A Trump advisor revealed why they helped the Macri government gain access to a bailout by the International Monetary Fund. Infobae (20/06/2020). Available at:

<https://www.infobae.com/politica/2020/07/28/un-asesor-de-trump-revelo-por-que-ayudaron-al-gobierno-de-macri-a-acceder-a-un-rescate-del-fondo-monetario-internacional/>

²¹ IMF Country Report No. 21/279 Ex-post evaluation of exceptional access under the 2018 Stand-By arrangement. December 2021.

²² Patricio Ferreira Lima, Karina and Marsh, Chris. *The IMF's 2018 Stand-By Arrangement with Argentina: An Ultra Vires Act?*

²³ Banco Central de la República Argentina (BCRA), *Mercado de cambios, deuda y formación de activos externos, 2015-2019* Available at: <http://www.bcra.gov.ar/Noticias/publicacion-de-informe-mercado-cambios-deuda-2015-2019-i.asp> accessed 28 December 2021.

²⁴ For more information on cases currently underway, see <https://fmiargentina.com>

29. In the first place, the loan file in the Ministry of Finance was not opened until June 21, 2018, nine days after signing the letter of intent and seven days after having filed, with legal representation by CAIP, the first *amparo* for access to information on the issue. This indicates that **the negotiations with the IMF and the terms of the agreement were negotiated without even having begun the necessary administrative procedures for the loan.** Nor were any technical studies done to substantiate the Memorandum of Economic and Financial Policies and the Memorandum of Technical Understanding that accompanied the Letter of Intent. The agreement took place behind closed doors among a small number of high-level officials and behind the population's back.
30. Furthermore, both the IMF and Argentine officials left out a series of prior steps pursuant to the Financial Administration Act (LAF N° 24,156) and the National Administrative Procedure Act (LNPA N° 19,549). These defects include **the lack of a prior legal opinion by the National Treasury Procurement Office, absence of a prior technical opinion from the Central Bank on the impact of the debt on balance of payments, and a presidential decision to take the loan under the conditions in which it was taken, or to delegate this power to lower officials.**²⁵ It is important to underline that both laws expressly stipulate that failure to meet these requirements imply the nullity of all acts in that these are essential elements in the formation of administrative will.²⁶ These illegalities were set forth in a report on the investigation carried out by CAIP in March 2020.
31. From the Executive Branch, when the 2021 legislative sessions began, the president announced that the State was going to pursue legal action to determine responsibility of the people who facilitated everything that had occurred. Not only the capital flight, but also the illegality of the loan origin.²⁷ This was achieved through Decree No. 239/2021,²⁸ containing instructions to the Anti-Corruption Office to pursue criminal charges (already in course),²⁹ as well as instructions to the National Treasury Procurement Office (PTN) to appear as plaintiff in this criminal case and, in addition, to "initiate actions conducive to the recovery of eventual damages and prejudices that may emerge from the events charged." The intervention by the PTN as plaintiff has already happened. Action to determine asset-related responsibilities is still pending.

²⁵ See Bernal, Andrés; Marinelli, Augusto y Verbic, Francisco. *La nulidad de crédito de Argentina con el Fondo Monetario Internacional*. Revista Derechos en Acción. Año 6/N° 19 Otoño 2021 Available at: <https://revistas.unlp.edu.ar/ReDeA/article/view/12488/11273>. In brief synthesis, the legal grounds for nullification, shown with official documents, are: (i) violation of LNPA, Art. 7, sections b) and d) due to absence of facts and noncompliance with the essential and substantial prior procedures under the national legal system; (ii) violation of LNPA, Art. 7 d) due to absence of prior legal opinion, since said opinion was issued after the signing of the first Letter of Intent by a body lacking jurisdiction and, moreover, with insufficient context to remedy the action; (iii) violation of the National Constitution. Art. 99, sect. 11, because the officials who signed the Letters of Intent (two presidents of the Central Bank and the Ministry of Finance) were not authorized by PEN to proceed in this sense; (iv) violation of the LAF, Art. 61 due to absence of technical opinion on the impact on balance of payments; (v) violation of LNPA, Art. 7 b) due to absence of a valid case to uphold the decision, because the memorandums attached to the letters of intent lacked any merit or support whatsoever.

²⁶ As established in LAF Art. 66 and LNPA Art. 14

²⁷ See: https://www.hcdn.gob.ar/prensa/noticias/2021/noticias_1526.html

²⁸ DCTO-2021-239-APN-PTE, Official Bulletin, April 9, 2021.

²⁹ File N° 3561/19, in course before Federal Criminal and Correctional Court N° 5.

32. Furthermore, there are two cases tied to this issue awaiting decision by the Supreme Court. One is on access to public information,³⁰ where the Executive Branch is charged with informing whether the agreement and other required information exists and, as the case may be, to deliver its content. The other case³¹ seeks to nullify the Stand-By Arrangement.
33. In the context of the country's current process of indebtedness, according to the Guiding Principles on foreign debt and human rights,³² a transparent, participatory and exhaustive audit must be carried out to determine the legality and legitimacy of the debt and the corresponding legal pathways put in place. The former Independent Expert Cephias Luminas made a similar recommendation in the report on his visit to the country in 2013 in reference to the debt contracted by the last military dictatorship.³³

VI. The Extended Facilities Agreement signed in 2022

34. Partly in political response to the opacity of circumstances in which the 2018 Stand-By Arrangement was signed, the current government put forward a law requiring that foreign currency debt subject to foreign law with extended jurisdiction be authorized by Congress. On March 3, 2021 Law 27,612 was passed on strengthening the sustainability of the public debt. This law further provides that "any financing program or public loan transaction entered into with the International Monetary Fund (IMF), as well as any expansion of the amounts in these programs or transactions, shall require a law passed by the Honorable National Congress expressly approving such amounts."
35. Argentina and the IMF reached a new agreement in March 2022 on extended facilities, whereby Argentina committed to **pay in full the loan amount negotiated under the Stand-By Arrangement over the next 10 years, including interest and surcharges**. In addition, the country agreed to submit to quarterly reviews tied to the periodic disbursements made by the IMF under the agreement, which **puts the country at constant risk of default**.
36. On paper the agreement signed by the government of Argentina contains relatively few structural reform requirements. The only requirements are fiscal convergence at zero by 2025 and the commitment to reduce energy subsidies. However, the IMF board has already cast doubt on the plausibility of the second item in a global context of rising fuel prices and recommends an "early recalibration of the schedule."³⁴ In addition, there are other requirements, such as reporting on the status of the pension system and possible reforms, making it reasonable to think that new conditionalities on structural reform may appear in future reviews.

³⁰ "Codianni, Eduardo Julio c/ EN s/ Amparo Ley 16.986" (File N° CAF 7651/2019).

³¹ "Murua, Eduardo c/ EN – BCRA s/ Proceso de conocimiento" (File N° CAF 64538/2019),

³² See [A/HRC/20/23](#)

³³ See [A/HRC/25/50/Add.3](#). A parallel between what happened during the dictatorship and the modality used to take out the 2018 loan can be consulted in Julián Axat – Francisco Verbic "Deuda externa, legalidad y memoria", El Cohete a la Luna, 20/03/2022, available at <https://www.elcoheteealaluna.com/deuda-externa-legalidad-y-memoria/>.

³⁴ Dell'Oca, Marcia, El FMI adelanta la primera revisión porque los riesgos son "excepcionalmente altos" La política online 25/03/22 Available at: <https://www.lapoliticaonline.com/economia/el-directorio-del-fmi-reconocio-que-los-riesgos-para-el-programa-son-excepcionalmente-altos-y-coincidio-en-adelantar-la-primera-revision/>

37. **This would, furthermore, be consistent with the way the IMF has operated historically, usually increasing the number of requirements at each review**, as shown in a study by Eurodad: in 25 programs and 32 review processes, it found that IMF loan schedules accumulated 26.8 structural conditionalities on average. However, at the time of signing and approval of the agreements, the average is just 17.9, i.e., as reviews progress new conditionalities are added at a rate of 7.3 per review.³⁵
38. Argentina will have to face the largest payments due between 2026 and 2032, and according to some analysts it is unlikely it will be able to pay the debt without refinancing, or else fall into default, increasing the likelihood that the next government will once again have to negotiate with the IMF.
39. It should also be highlighted **that the estimated surcharges Argentina will be expected to pay amount to 3.3 billion dollars through 2023**, a mechanism that has been shown to have negative impacts on countries' economies and that ultimately punishes those most in need of international financing.³⁶ That latest data available also show that eliminating surcharges would not jeopardize the sustainability of the IMF's finances.³⁷
40. In contrast to the 2018 Stand-By Agreement, this one was discussed and approved by Congress, as established under Law 27.612 (2021) on strengthening the sustainability of Argentina's public debt. While this gave the population more access to information about the agreement, the negotiations with the IMF followed the same path of secrecy and exclusion from public knowledge. Nor did the government conduct studies (or didn't publish them) on the potential impact of this extended facilities schedule on human rights (as set forth in the Guiding Principles for assessments of the impact of economic reforms on human rights).
41. The Permanent Bicameral Commission on the Monitoring and Control of Argentina's Foreign Debt Acquisitions and Payments was established in 2016. This commission has the capacity to investigate irregularities in the debt acquisition process of 2018. In May 2020, the Commission decided to investigate the capital flight and mounting debt of the Mauricio Macri administration. However, that investigation has not moved forward and the Commission has yet to be formed since the mid-term elections.
42. Finally, there is currently a bill under discussion in Congress to create a "National Fund for cancelling the debt with the International Monetary Fund" that would be financed by a 20% tax on undeclared assets held by individuals, legal entities or undivided estates in possession of holdings in national and/or foreign currency and other assets abroad that

³⁵ Brunswijck, Gino. *Unhealthy conditions: IMF loan conditionality and its impacts on health financing*. European Network on Debt and Development (Eurodad) Available at: https://assets.nationbuilder.com/eurodad/pages/511/attachments/original/1590680908/Unhealthy_conditions.pdf?1590680908

³⁶ Arauz, Andrés et al. *IMF surcharges: Counterproductive and unfair*. Center for Economic and Policy Research (CEPR). September 2021. Available at: <https://cepr.net/wp-content/uploads/2021/09/IMF-Surcharge-Final.pdf>

³⁷ Arauz, Andrés and Odd, Hanssen. *IMF projects no losses if surcharges are removed*. Center for Economic and Policy Research (CEPR), May 2022. Available: https://cepr.net/imf-projects-no-losses-if-surcharges-are-removed/?utm_source=emailmarketing&utm_medium=email&utm_campaign=bretton_woods_news_1_ens_26_may_2022&utm_content=2022-05-31

remain undeclared in Argentina.³⁸ It is important to highlight that this bill is accompanied by another to amend the rules for lifting financial, trade and banking secrecy, which is being studied and reviewed in the Senate. The approval of this second bill is indispensable to be able to detect tax evaders, so the efficacy of the first bill is dependent upon the enactment of the latter.

Questions for the State

1. In light of the growing poverty in recent years, what measures are being taken to reduce the negative impacts on the population?
2. What measures are being taken to increase the number of registered workers? Are there specific measures for female workers?
3. What mechanisms of participation by the population exist in relation to the country's acquisition of foreign debt?

Recommendations to the State

1. Ensure progressive and not regressive taxation of social expenditures, placing special priority on policies aimed at guaranteeing the rights of particularly vulnerable groups. To do otherwise would be in grave contravention of the obligation in this sense in compliance with ESCR. This includes ensuring that social benefits like the Universal Child Allowance do not lose value as a result of inflation.
2. Generate measures to promote the registration of workers, especially women.
3. Increase progressive taxation on personal assets – such as the personal property tax (so that it progressively taxes greater wealth) and real estate taxes (update the taxable basis in all subnational jurisdictions taking market values into account, so as to position the tax as a significant source of state revenues) – and income tax (by increasing the aliquots for larger tax brackets).
4. Publish updated, timely, detailed information on the costs, expected benefits and beneficiaries of tax expenditures; institutionalize the implementation of tax assessments to enable evidence-based decisions on tax continuation or review, and eliminate taxes that are unjustified or inequitable. In addition, reduce the discretionary application of financial secrecy and promote openness of relevant information for inspection and accountability in financial and fiscal matters.
5. Bolster the fight against tax evasion and money-laundering by, among others, opening information on local financial markets and participation by Argentine citizens in foreign financial markets and fiscal paradises.
6. Ratify the United Nations Guiding Principles related to evaluations of the effects of economic reforms on human rights and undertake impact assessments of foreign debt on the rights of especially vulnerable groups. These evaluations should also be done in the context of future negotiations and reviews of the debt with the IMF.

³⁸ *Arranca en diputados el debate sobre el proyecto para pagarle al FMI con plata fugada*. El parlamentario (28/5/22). Available at: <https://www.parlamentario.com/2022/05/28/arranca-en-diputados-el-debate-sobre-el-proyecto-para-pagarle-al-fmi-con-plata-fugada/>

7. In accordance with the principles of transparency and accountability, ensure access by the population to information about the 2018 loan. In addition, the State should abstain from posing obstacles to the current Supreme Court case on access to information about the loan.
8. As part of its extraterritorial obligations, work with other States to guarantee that the IMF consider human rights in its public policy recommendations and eliminate regressive policies such as surcharges.
9. Generate mechanisms to allow citizen participation in the processes of acquiring debt (including IMF reviews).
10. Carry out an audit of the irregularities of the 2018 IMF loan.
11. Form and put into operation the Permanent Bicameral Commission on the Monitoring and Control of Argentina's Foreign Debt Acquisitions and Payments.