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June 18, 2020

**Mr. Balakrishnan Rajagopal**

Special Rapporteur on adequate housing

United Nations

[via e-mail]

**RE: Input for report on COVID-19 and right to housing**

**Dear Mr. Rajagopal**

These comments were prepared by Ayuda Legal Puerto Rico, a non-profit organization that provides free legal education and support to low income individuals and communities in the archipelago. Through our work, we promote social justice and the right to housing. Many of our [human right demands around COVID-19](https://www.ayudalegalpuertorico.org/nuestros-reclamos-en-tiempo-de-covid-19/), are available at our website. As inhabitants of an occupied territory and survivors of multiple major disasters, we are well aware of the urgency to discuss the right to the land and the impact of dispossession amidst any disaster, COVID-19 included. Thank you for the occasion.

In solidarity

Ariadna Michelle Godreau-Aubert

Executive director

**In your country or local context, which social groups are most at risk of marginalization due to the impacts of the COVID-19 crisis on the right to housing?**

As per [US Standards](https://www.census.gov/quickfacts/PR), 43% of the population in Puerto Rico is under poverty levels. Lack of security of tenure and persistent damages to housing infrastructure, almost three years after major 2017 hurricanes, are widespread issues. The pandemic has highlighted underlying inequalities that directly affect the possibilities of staying sheltered. Those 60 years or older, who account for 25% of the population, have poverty rates of 40%. This segment is also the most vulnerable population amidst the pandemic and lack adequate testing and tracking at care homes. At the same time, tenants - 32% of the housing units- and homeowners with mortgages - [more than 364,000](http://www.ocif.pr.gov/DatosEstadisticos/Datos%20Estadisticos/Originaci%C3%B3n%20de%20Pr%C3%A9stamos%20Hipotecarios%20Instituciones%20Hipotecarias.pdf) - are at risk of losing their homes due to economic hardship due to COVID-19 and the lack of policies to stop evictions or foreclosures. People still living in damaged homes after the 2017 hurricanes are unable to maintain physical distance since the official guidelines ask people to move with relatives and friends while they wait for repairs. With the new hurricane season already underway, the Government of Puerto Rico has not published a protocol to secure COVID-19 safety measures in regards to emergency shelters, emergency transport, temporary housing, or relocations. Women-headed households are also at risk. Lack of policies and clear processes, together with technological boulders that affect the right to access assistance, has delayed unemployment insurance assistance for thousands of now displaced workers. Once businesses reopen - without adequate safety measures in place- women disproportionately face the challenge of returning to work without having options for child care. Some factors are that schools are not operating, childcare centers will be closed until July 1st. There is fear to leave kids at these centers because of the lack of accountability and monitoring from the government of these private facilities and the fact that financial insecurity leaves no space to afford such care. Absent policies to protect them, women are more vulnerable and likely to be displaced.

**What measures (if any) have been taken to protect persons in informal settlements, in refugee or IDP camps, or in the situation of overcrowding from COVID-19?**

Since January 2020, dozens of families affected by earthquakes in the Southern parts of the archipelago have settled in informal camps due to unsafe housing. Three months after the quarantine started, there are no measures in place to protect them from COVID-19 infections. Nor, despite multiple claims from various advocacy groups and community leaders, have they been provided with adequate transitional or permanent housing. We have received [reports](https://www.primerahora.com/noticias/puerto-rico/notas/dejan-sin-agua-a-refugiados-en-barrio-la-luna-en-guanica/) from specific camps where the municipal government removed the camp’s water source. Further, municipal governments have threatened displacement and violated the residents’ privacy rights regarding applications for assistance.

**What measures have been taken by the national or local government to protect persons living in institutions such as prisons, shelters for homeless, women or children, persons with disabilities, older persons, or collective accommodation for refugees, asylum seekers or migrant workers, including staff working in these institutions from the COVID-19?**

Homeless population: According to the US Housing Department, in 2019 2,535 people lived on the streets of Puerto Rico. Executive Order 2020-25 (March 17, 2020) responded to advocacy requests to approve a plan for people living under situations of homelessness. The order mandated the Departments of Housing, Health, and Family, to adopt protocols to ensure proper treatment of this population, specifically temporary shelters with COVID-19 safety measures in place. On April 16, media outlets interviewed both homeless people and government officials and concluded that the protocol was in place. On May 12, a presumably prepared shelter was finally identified in [Ponce](https://vocesdelsurpr.com/2020/05/identifican-lugar-en-ponce-para-ubicar-a-personas-sin-hogar-contagiadas-con-covid-19/). On June 16, ALPR confirmed that neither the plan nor information on the centers is available on either agency's websites.

Imprisoned population: The Department of Correction and Rehabilitation of Puerto Rico, estimates the incarcerated population is 8,948 individuals, 97% men. Since April 1, the government provided [595 COVID-19](http://dcr.pr.gov/covid-19/) tests to inmates. Only two positives were registered. The information does not clarify if these were rapid tests - highly unreliable to verify cases- or serological tests. At present, the majority of the testing in Puerto Rico has been rapid testing. Several experts have denounced the accuracy of these tests. The FDA has [advised against the use of these tests](https://periodismoinvestigativo.com/2020/04/desconocidos-los-resultados-de-las-pruebas-rapidas-de-covid-19-en-puerto-rico/).

Domestic violence survivors: Following a tragic global trend, domestic violence incidents have escalated throughout the pandemic. PR was in a total lockdown from March 13 to June 15, a situation that placed victims in isolation with aggressors and hindered access to protective services. During this period, [femicides have increased](https://www.todaspr.com/aumentan-un-83-los-feminicidios-durante-la-cuarentena-en-puerto-rico/?fbclid=IwAR3DEgxJBccWe4vWiwh212-W-) by 83% in comparison to 2019. At least 23 women have been killed since January 2020, 11 of them during the lockdown. In May 2020, the [Police Department announced](https://www.elnuevodia.com/opinion/columnas/laotracaradelacrisisviolenciadegenero-columna-2568223/) that 919 incidents of domestic violence had been reported between the beginning of the lockdown and May 6. Advocacy groups, such as Proyecto Matria, have been calling on the government to adopt a protocol to mitigate the rise of domestic violence amidst disaster. No response has been given. Since 2018, several feminist and human right groups, have been demanding the governor to adopt a National State of Emergency for Violence Against Women. This proposal has not been approved, regardless of increasing incidents of gender violence.

The Judicial Branch, in collaboration with ALPR, developed the technology to permit the online submission of requests for restraining orders for domestic violence survivors. Other processes also streamlined included orders regarding mental health and elder abuse, among others. It is important to note that although beneficial, more must be done to ensure access to survivors without technological capacity.

**What social support has been made available to persons who live in informal settlements or who have relied on informal work as income for their survival, food, and housing ? (for example persons informally working as domestic workers, persons informally employed in the care of children or older persons, in restaurants, on construction sites, or in other sectors of the informal economy including migrant labour)**

Most of the assistance available excludes migrant communities, which in Puerto Rico is predominantly from the Dominican Republic. For example, they do not have access to the stipends or incentives approved by the US government. Also, those married to migrants who lack a social security number may find themselves unable to access these emergency funds.

**Have there been evictions of individuals or communities during the pandemic? If so, please provide details (number affected persons, date, location and background information).**

1. Students living at dorms owned by the University of Puerto Rico Rio Piedras Campus were [evicted from their dwellings](https://www.telemundopr.com/noticias/puerto-rico/condenan-desalojo-de-estudiantes-en-medio-de-la-cuarentena/2087681/)  at the end of May 2020.

**Have there been any cut-offs of utility (heat, water etc.) for any community or individuals during the pandemic? If so, please provide details (date, number, location etc.)**

1. On March 28, 2020, an informal camp of earthquake survivors in Guánica [(Campamento La Luna)](https://www.primerahora.com/noticias/puerto-rico/notas/dejan-sin-agua-a-refugiados-en-barrio-la-luna-en-guanica/) reported that the municipal authorities took away sources of potable water.
2. In April 2020, the Housing Coop Los Robles - house to low income individuals and families with public housing vouchers- in San Juan reportedly disconnected water and electricity services to individuals threatened with evictions.

**Has a prohibition of evictions and/or utility cut-offs been declared? If yes, please provide more details, to whom it applies, and if possible the official regulation governing it (URL or use upload field at the end of the questionnaire).**

The government of Puerto Rico has not moved to stop evictions. The courts, however, issued a protocol that forbids the filing or hearings of evictions and foreclosures proceedings till the last phase of reopening (presumably the end of July). In addition, the [CARES Act](https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf), enacted by the United States government, evictions for lack of payment have been suspended for people living in:

(1) public housing or federally subsidized housing - till August 31, 2020

(2) individuals living in houses that have federally backed mortgages - till August 31, 2020

As to the prohibition of utility cut-offs, the government instituted a ban on water or electricity suspensions during the emergency declaration, still in place.

**Can you provide details about any measures taken by your national or local government to assist tenants or mortgage payers, to pay their rent or mortgage during and after the pandemic? If possible, please provide also the text of the regulations governing these measures (URL, or use upload field a the end).**

Thanks to advocacy efforts, the governor of Puerto Rico called for a 90-day moratorium on mortgage payments as part of the emergency declaration on March 13. This claim eventually became a law that incorporated principles of just moratoriums such as protection to every borrower with COVID-19 related financial hardship till June, protection against lump-sum payment requests, and a mandate to the Financial Institutions Commissioner to guarantee banks compliance with the law. These efforts are corollary to the ones carried out by the US Government since the CARES Act introduced extended forbearance periods (180 days, with the possibility to extend it for another 180 days) for families with federally subsidized mortgages. [60% of borrowers in PR have FHA](http://www.ocif.pr.gov/DatosEstadisticos/Pages/default.aspx) or federally backed mortgage loans. There is also a payment moratorium for mortgages backed by the local government (Comunidades Especiales). As to those not covered by these moratoriums or those whose protections are ending in June, there are no further alternatives.

Besides the above-mentioned protections against evictions, there are no rental assistance programs for rentals, particularly those renting privately owned properties. We have been calling the government to use available disaster relief funds (CDBG-CV) to channel rental assistance for low to medium-income families that have experienced financial hardship due to the pandemic. As it stands, when the moratoriums expire, past rent and mortgage payment will become due and those who are unable to pay will face eviction and foreclosure processes.

**In April 2020, the previous Special Rapporteur on the right to adequate housing, Leilani Farha, published five guidance notes on COVID-19, which can be accessed on the official webpage of the Special Rapporteur. Can you provide any comments if they have been useful for your work or advocacy? Would you have any additional recommendations to protect the right to adequate housing during the pandemic and in its aftermath?**

Farha's guidance notes have been important to shed light on how housing rights indicators can be adapted to measure official responses to global disasters. These documents are essential to stress how issues such as tenant protections, informal settlements, and people living in homeless situations require a holistic approach to rights such as dignified housing, health, and an adequate standard of living. Yet, possibly the part that becomes more instrumental for our advocacy is the way these notes look ahead into the social and economic consequences of the pandemic, which are parallel to those experienced because of disaster capitalism. The financialization of housing, the higher costs of living vis-a-vis a more precarized condition of dwellers, the inability to recover structures but also social mobility, together with increased individual and collective indebtedness, will end up claiming actual possession of the land and dispossessing many along the process.

A specific recommendation, reporting from Puerto Rico as an occupied territory and a very vivid reminder of the persistence of colonialism, would be to include non-sovereign territories in analyses of how specific disasters challenge - or jeopardize even further- the possibility of actually staying in a house, a community, an island, a country. Understanding displacements at these political and social levels is essential to further human rights advocacy and accountability at global levels.