



UPR Submission Argentina April 2012

I. Summary

Since the Universal Periodic Review in 2008, Argentina has made important progress on several recommendations made by states and non-governmental organizations. However, significant challenges remain to the resolution of a number of important recommendations, particularly with respect to human rights trials, freedom of expression and access to information, prison conditions, torture, and women's reproductive rights.

II. Human Rights Issues

Confronting Past Abuses

Argentina continues to make significant progress prosecuting military and police personnel for enforced disappearances, killings, and torture during the country's "dirty war" between 1976 and 1983, although trials have been subject to delays. Argentina should strengthen its efforts to implement recommendation 4 on the protection of witnesses and victims, and recommendation 5 on preventing delays of the ongoing human rights trials, both accepted during the UPR in 2008.

Several important human rights cases from Argentina's last military dictatorship (1976-1983) were reopened in 2003 after Congress annulled the 1986 "Full Stop" law, which had stopped prosecution of such cases, and the 1987 "Due Obedience" law, which granted immunity in such cases to all members of the military except those in positions of command. In 2005, the Supreme Court upheld the unconstitutionality of the amnesty laws, originally decided by a judge in 2001 in a case brought by the Center for Legal and Social Studies (CELS) and Abuelas de Plaza de Mayo. Starting in 2005, federal judges struck down pardons that then-President Carlos Menem issued between 1989 and 1990 to former officials convicted of or facing trial for human rights violations.

As of October 2011, according to CELS, 379 cases (in which CELS participated), involving killings, "disappearances," and torture, were under judicial investigation or being tried in court. Of 1,774 alleged

perpetrators, 749 were facing charges for these crimes, and 210 had been convicted.

Trials have been subject to delays at the appellate level, with appeals normally taking more than two years to be heard after the sentence of the trial court. At this writing the Supreme Court had confirmed final sentences in only a handful of the cases reactivated after the annulment of the amnesty laws.

For example, in March 2011 the First Federal Oral Court sentenced an army general to life imprisonment and three agents to prison terms between 20 and 25 years for the murder, torture, and illegal arrest of detainees held in the 1970s in a secret detention center in Buenos Aires, the capital, known as Automotores Orletti. It was the first conviction in Argentina of participants in Plan Condor, a scheme by which the military rulers of the region coordinated the abduction, interrogation, and “disappearance” of political opponents. More than 30 Uruguayans abducted in Argentina in 1976 were held at Automotores Orletti, before some were transferred back to Uruguay. Others “disappeared.”

Security of witnesses in human rights trials continues to be a concern. The most paradigmatic example has been that of Jorge Julio López, 79, a former torture victim who disappeared from his home in September 2006, the day before he was due to attend one of the final days of a trial, and remains missing.

Freedom of Expression and Access to Information

There is a vibrant public debate in Argentina, in which government supporters and opposition present their points of view. However, some significant challenges remain to strengthen free speech protections, such as adopting regulations to limit arbitrary distribution of official advertising, and the adoption of national legislation regarding public access to information.

A bill to regulate the broadcast media, which Congress approved in October 2009, aims to promote diversity of views by limiting the ability of corporations to own large portions of the radio frequency spectrum. The implementation of this legislation has produced positive results since its approval, for example the assignment of frequencies to provinces, municipalities, and universities. The law, however, contains vague definitions of what “faults” could lead to sanctions—including the revocation of broadcasting licenses—and establishes a new regulatory body to interpret and implement its provisions. The law has

faced numerous legal challenges. In October 2010 the Supreme Court upheld an injunction suspending application of an article of the law that would oblige companies to sell within a year outlets that exceed the new legal limits. This legislation's impact on free expression will depend on how the regulation authority implements its mandate, which should be done without discriminating against media outlets that may be critical of the government.

The Supreme Court has defended the right of print media not to be discriminated against in the allocation of official advertising. In March 2011 it unanimously upheld an administrative court ruling in favor of *Perfil* publications, which had filed a petition for an injunction against the government for refusing to allocate advertising to *Noticias* and *Fortuna* magazines, and to the *Perfil* newspaper, because of their editorial positions. The Supreme Court had published a similar ruling in 2007 against the provincial government of Neuquén in a complaint filed by the *Rio Negro* newspaper.

In September 2011 a judge subpoenaed Argentina's leading newspapers to provide the contact information of journalists and editors who have covered the Argentine economy since 2006, so that he could question them about their sources. Official statistics on the inflation rate have been widely questioned in recent years and many newspapers rely for inflation estimates on private consultancies, one of which the Commerce Secretary had accused of willfully falsifying the figures, a criminal offense in Argentina. The subpoenas threatened the press's freedom to freely publish information of public interest.

A proposed law to ensure public access to information held by state bodies has been stalled in the Chamber of Deputies since it received Senate approval in September 2010.

Conditions in Detention Facilities

Overcrowding, inadequate physical conditions, abuses by guards, and inmate violence continue to be serious problems in detention facilities. Argentina has made little progress in implementing recommendation 8, accepted during the UPR in 2008, to improve prison conditions, especially the overcrowding.

Following a visit to the province of Buenos Aires in June 2010, the Organization of American States' special rapporteur on the rights of persons deprived of their liberty reported that, according to official figures, 4,040 inmates (out of a provincial prison population of 30,132) were being held in police lockups not designed or equipped to hold

detainees for long periods. The special rapporteur expressed concern about the abusive use of pre-trial detention, torture and ill-treatment by police guards, poor sanitary conditions, and deficient medical attention in these facilities.

According to CELS, the situation in February 2011 had scarcely improved. Despite a slight decline in the number held in preventive detention and in police lockups, conditions remained deplorable, and overcrowding and violence in the prison system had increased. According to CELS, there were 124 prison deaths due to abusive conditions in 2010.

Torture

Torture and ill-treatment are common problems. Government authorities and the legislature have taken some steps to curb abuse of detainees. In December 2010 the Public Defender's Office set up a National Register of Torture and Ill-treatment, a torture data bank aimed at registering, documenting, and following up on denunciations of torture, "other forms of institutional violence," and inhumane conditions of detention. Legislation creating a national system of torture prevention, drafted by a wide range of civil society groups, was approved unanimously in the Chamber of Deputies in September 2011. As of March 2012, it awaited a final vote in the Senate to become law. Argentina is a party to the Optional Protocol to the Convention against Torture, which it ratified in September 2004.

Reproductive Rights

Abortion is illegal, with limited exceptions, and women and girls face numerous obstacles to reproductive health products and services such as contraception, voluntary sterilization procedures, and abortion after rape. The most common barriers are long delays in obtaining services, unnecessary referrals to other clinics, demands for spousal permission (contrary to law), financial barriers, and, in some cases, arbitrary denials. In addition, government oversight of reproductive health care and accountability practices are woefully deficient. As a result of these barriers, women and girls may face unwanted or unhealthy pregnancies. Approximately half-a-million illegal abortions occur every year, and unsafe abortions have been a leading cause of maternal mortality for decades. Several proposals to decriminalize abortion were pending before the Chamber of Deputies at this writing.

III. Recommendations to be made to the government of Argentina

Regarding Prosecution of Past Abuses

- The Attorney General's Office and criminal courts should ensure human rights trials are resolved promptly and avoid undue delays.
- The government of Argentina should ensure full protection for witnesses in human rights trials.

Regarding Freedom of Expression and Access to Information

- The legislature should immediately adopt a national law to ensure public access to official information held by the government.
- The government of Argentina should adopt concrete guidelines regarding the distribution of official advertisement to limit the possibility of discrimination against critical media outlets when distributing such advertisement, in accordance with international standards and the Argentine Supreme Court case law.

Regarding Conditions in Detention Facilities and Torture

- The government of Argentina should immediately adopt concrete measures to eliminate overcrowding and improve prison conditions in detention facilities, as well as take steps to ensure fair treatment of all prisoners.
- The Senate should ensure passage of legislation to create a national system of torture prevention.

Regarding Reproductive Rights

- The Ministry of Health should take steps to remove obstacles facing women in accessing reproductive health products and services, including contraceptives, voluntary sterilization procedures, and abortion after rape.
- The government of Argentina should enforce laws that allow adolescents to seek reproductive health products and services without parental consent.
- The Ministry of Health should increase government oversight of the provision of reproductive health services and strengthen accountability systems.
- The government of Argentina should reduce the number of maternal deaths associated with unsafe abortions by following through with pending legislation that would provide women legal access to a full range of reproductive health services, including abortion.