

# ARGENTINA

## EXECUTIVE SUMMARY

Argentina is a federal constitutional republic. Cristina Fernandez de Kirchner was reelected to the presidency in October 2011 in multiparty elections that media and various nongovernmental organizations (NGOs) described as generally free and fair. Security forces reported to civilian authorities but occasionally acted independently of civilian control.

The principal human rights problems included use of excessive force by police, sometimes resulting in deaths; actions that risk impairing freedom of the press; and continuing infringements on the rights of indigenous people.

Other human rights problems included poor prison conditions, including mistreatment of some prisoners; occasional arbitrary arrest and detention; prolonged pretrial detention; continued concerns about judicial efficiency and independence; official corruption; domestic violence against women; child abuse; sex trafficking and forced labor, primarily within the country; and child labor.

Judicial authorities prosecuted a number of officials who committed abuses during the reporting period; however, some officials engaged in corruption or other abuses with impunity.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary or Unlawful Deprivation of Life**

The government or its agents did not commit any politically motivated killings; however, there were reports of deaths as a result of police using unwarranted or excessive force.

A November report by the NGO Coordinator Against Police Repression claimed that security forces using excessive force killed 145 persons between mid-November 2009 and mid-November 2010. The Center for Legal and Social Studies (CELS) reported a 10-percent increase in deaths as a result of police using unwarranted or excessive force in the city of Buenos Aires and Buenos Aires Province from June 2009 to June 2010. In one instance a federal police officer in Buenos Aires city shot and killed Ariel Dominguez, whom the officer allegedly believed had just committed a robbery. The officer claimed the gun had

discharged when he accidentally dropped it, but a Security Ministry official investigation disproved this defense. A judicial investigation continued, and the officer remained free at year's end.

On June 2, the First Criminal Court of Bariloche sentenced police officer Sergio Colombil to 20 years' imprisonment for the June 2010 murder of Diego Bonefoi. An investigation into the killings of Nicolas Carrasco and Sergio Cardenas, who were killed during a subsequent march to protest Bonefoi's death, continued at year's end.

Local human rights organizations and media reported on a pattern of excessive violence by police forces in land evictions carried out during the year. In the northern province of Jujuy on July 28, four people were shot and killed during a dispute between police and protesters demanding property rights. Following the killings, the provincial chief of police stepped down, and the provincial government opened an investigation to determine whether police officers were responsible for the deaths. The investigation continued at year's end.

### **b. Disappearance**

There were no reports of politically motivated disappearances.

In October the Inter-American Court on Human Rights ordered the government to "initiate, direct, and conclude" the case of Ivan Torres, who disappeared in 2003 in the province of Chubut. According to press reports, the state had previously acknowledged the involvement of police officers and possible irregularities in the case.

Authorities continued to investigate and prosecute individuals implicated in disappearances, killings, and torture committed during the 1976-83 military dictatorship, a focus of the government's human rights policy. New investigations into the "systematic plan" of the military dictatorship, including the appropriation of children of detainees and the killing of detainees on "death flights," emerged during the year. CELS estimated there were 270 ongoing judicial investigations and 734 persons charged for crimes against humanity committed during the military dictatorship. Of those charged, 398 remained in pretrial detention. According to the Supreme Court's Office for Follow-up on Crimes Against Humanity, during the year the courts convicted 67 perpetrators of human rights abuses committed during the 1976-83 period, and it continued trials that were

suspended in 1989-90 when the government issued a blanket pardon. An additional 118 cases were pending at year's end. High-profile cases included:

- On May 18, former intelligence police agent Luis Antonio Falco was sentenced to 18 years in prison for appropriating the son of two detainees who had disappeared in 1977 after being held in a detention center.
- On June 2, a federal judge prosecuted five pilots for conducting a "death flight" in which the pilots allegedly killed several political prisoners by throwing them in the sea. Among the alleged victims were some of the founding members of the NGO Madres de la Plaza de Mayo. The pilots remained in detention while the trials continued at year's end.
- On October 26, a federal court sentenced to life in prison 12 former military and police officers who were found guilty of the kidnapping, torture, and murder of 86 individuals.

Judicial authorities continued to investigate cases of kidnapping and illegal adoption of children born to detained dissidents by members of the former military dictatorship. The NGO Abuelas de Plaza de Mayo reported that during the year three persons illegally adopted by former military officials were identified and made aware of their backgrounds; this increased the number of persons so identified to 105 of an estimated 500 persons born to detained and missing dissidents during the former military dictatorship.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits torture and other cruel, inhuman, or degrading treatment or punishment and provides penalties for torture similar to those for homicide. However, CELS, the Office of National Public Prosecutor (NPPO), and the Buenos Aires Provincial Memory Commission's Committee against Torture (an autonomous office established by the provincial government) reported that some police and prison guards continued to employ brutality and other acts that inflicted severe pain and suffering, particularly during prison transfers. While the government investigated such reports, there were few convictions.

In May authorities prosecuted nine policemen for alleged torture and abuse of authority in the case of three teenagers suspected of theft. The teenagers testified that they had been shocked with an electrical device and beaten severely after

being detained in a police station in Buenos Aires. The trial continued at year's end, while one of the defendants accused of torture remained a fugitive.

According to a June report of the Buenos Aires Provincial Memory Commission's Committee Against Torture, practices such as beatings, the use of a cattle prod, cold-water showers, and forced isolation within Buenos Aires prisons were common. The Memory Commission's Annual Report has denounced these treatments during each of the past eight years.

### **Prison and Detention Center Conditions**

Prison conditions often were poor. Inmates in many facilities suffered from extreme overcrowding, poor nutrition, inadequate medical and psychological treatment, inadequate sanitation, limited family visits, and frequent degrading treatment, according to various reports by human rights organizations and research centers. Prisoners receive potable water. The number of prisoners in Buenos Aires provincial penitentiaries exceeded facility capacity by an estimated 96 percent, according to a 2010 report by the provincial Council of Defenders.

Deaths were uncommon in federal prisons; eight prisoners died as a result of violence during 2010, including five deaths by hanging, according to the NPPO.

On July 26, the government of Mendoza Province agreed to pay \$2.216 million to the families of 18 victims and nine wounded former prisoners who suffered violent treatment in the province's Boulogne Mer Sur prison between 2004 and 2007. The agreement between the Mendoza government and the plaintiffs was monitored by the Inter-American Commission of Human Rights (IACHR) and included a plan to establish a local prison ombudsman and implement mechanisms to prevent torture.

However, NGOs and media reports alleged recurring poor prison conditions in the province of Mendoza during the year. In February the NGO Xumek presented a federal prosecutor several videos depicting brutal treatment of prisoners in a federally administered prison in Mendoza. The footage, which had been captured by a cell phone camera during 2010, showed a group of prison guards beating and kicking a handcuffed prisoner, according to press reports. Following a judicial order, authorities detained five of the guards involved and dismissed three prison supervisors. The national government's Secretariat of Human Rights presented itself as a plaintiff in the case, and the investigation continued at year's end.

Women were held separately from men, and the law permits children to stay in prison with their mothers until the age of four. According to the Federal Penitentiary Service, there were 789 women in federal prisons as of December 2010, and 43 children under the age of four lived with their mothers. Women constituted 9 percent of the overall prison population, which included approximately 30,000 in the Buenos Aires provincial prisons and approximately 10,000 in federal prisons. CELS estimated that 74 percent of those in Buenos Aires provincial prisons were in pretrial detention or awaiting sentencing, and many were held with convicted prisoners. In general men's prisons were more violent, dangerous, and crowded than women's prisons.

Overcrowding in juvenile facilities often resulted in minors' being held in police station facilities, even though some NGOs and the National Prison Ombudsman warned that such activity was against the law. On August 4, Minister of Security Nilda Garre announced that beginning in December minors would no longer be held in police station facilities.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. However, some local NGOs noted that access to a public defender was sometimes limited and that prisoners occasionally did not submit complaints to authorities for fear of reprisal.

At year's end the government had not implemented a comprehensive mechanism to investigate and monitor prison and detention-center conditions. The NPPO, which serves as an ombudsman on behalf of prisoners and detainees, was established as an autonomous governmental institution in 2004. However, local human rights observers reported that the NPPO did not have jurisdiction in all detention facilities and lacked necessary authority to carry out its functions.

The government permitted independent prison visits by local and international human rights observers, and such visits took place during the year.

On August 30, the national government passed a law establishing the "right to a public education" for prisoners throughout the country. The law requires prison administration authorities to provide access to all levels of education and the same teaching methods used in public schools to all prisoners, regardless of the status of their cases.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions; however, police reportedly arrested and detained citizens arbitrarily on occasion.

#### **Role of the Police and Security Apparatus**

The federal police have jurisdiction for maintaining law and order in the federal capital and for federal crimes in the provinces. Other federal police authorities include the airport security police, the gendarmerie, the Coast Guard, and the bureau of prisons. All federal police forces fall under the authority of the Security Ministry, which was established in December 2010; they were previously under the jurisdiction of the Justice and Human Rights Ministry. Additionally, each province and the city of Buenos Aires has its own police force that responds to a provincial (or city) security ministry or secretariat. Individual forces varied considerably in their effectiveness and respect for human rights.

The federal security forces have the authority to conduct internal investigations into alleged abuses and to fire individuals who have allegedly committed a human rights violation. The federal government can also file complaints with the federal courts; provincial governments may do the same for provincial security forces. Members of security forces convicted of a crime were subject to stiff penalties. Generally, officers accused of wrongdoing were administratively suspended until completion of an investigation. Authorities investigated and, in some cases, detained, prosecuted, and convicted the officers involved.

According to a June report by the Buenos Aires Provincial Memory Commission, police oppression of youth from vulnerable social sectors increased during the year. The report alleged detention without a judicial order, fabrication of evidence in legal cases, and recruitment of youth to commit crimes. The commission proposed institutional reforms aimed at addressing these issues, including the creation of a judicial police force that would report to the Supreme Court and replace provincial police in criminal cases.

#### **Arrest Procedures and Treatment While in Detention**

Individuals generally were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official; police may detain suspects for up to 10 hours without an arrest warrant if the authorities have a well-founded

belief that the suspects have committed, or are about to commit, a crime or are unable to determine the suspected person's identity. Human rights groups reported that the police occasionally arrested persons arbitrarily and detained suspects longer than 10 hours.

The law provides a person in detention with the right to a prompt determination of the legality of the detention, which entails appearance before a lower criminal court judge, who determines whether to proceed with an investigation. There were some delays in this process and in informing detainees of the charges against them.

During the year the province of Buenos Aires ordered the closure of nearly 150 detention cells in police stations and established a maximum detention period of 48 hours in 67 of the province's police stations.

The law provides for the right to bail, except in cases involving narcotics, violent crimes, and firearms violations.

Detainees were allowed prompt access to counsel, and public defenders were provided for detainees unable to afford counsel, although such access sometimes was delayed due to an overburdened system.

Pretrial Detention: The law provides for investigative detention of up to two years for indicted persons awaiting or undergoing trial; the period may be extended for one year in limited situations. The slow pace of the justice system often resulted in lengthy detentions beyond the period stipulated by law. CELS reported that prisoners waited an average of three years to be tried, with some cases taking as long as six years. A convicted prisoner usually received credit for time already served.

CELS indicated that nearly 74 percent of detainees in Buenos Aires Province were either in pretrial detention, awaiting sentencing, or awaiting the appeals process. According to several human rights organizations, 30 percent of pretrial detainees were eventually acquitted.

#### **e. Denial of Fair Public Trial**

The law provides for the right to a fair trial, and the independent judiciary generally enforced this right. However, judicial scholars continued to report inefficiencies and delays in the judicial system. According to some local NGOs,

judges in federal criminal and electoral courts were sometimes subject to political manipulation.

The judicial system was hampered by delays, procedural logjams, changes of judges, inadequate administrative support, and general inefficiency. Judges have broad discretion as to whether and how to pursue investigations, contributing to a public perception that many decisions were arbitrary.

### **Trial Procedures**

Trials are public; defendants enjoy a presumption of innocence and have the right to appeal, have legal counsel, and call defense witnesses in federal courts and some provincial courts that have an accusatory system of criminal justice. If needed, a public defender is provided at public expense when defendants face serious criminal charges. During the investigative stage, defendants can submit questions in writing to the investigating judge. A panel of judges decides guilt or innocence. Although defendants and their attorneys have access to government-held evidence, according to local NGOs, in practice they sometimes experienced obstacles or delays in obtaining such evidence. Lengthy delays in trials occurred nationwide, with many cases taking five or more years to resolve.

Federal and provincial courts continued the transition to trials with oral arguments in criminal cases, replacing the old system of written submissions. Although the 1994 constitution provides for trial by jury, implementing legislation had not been passed by year's end. In Cordoba Province, however, defendants accused of certain serious crimes have the right to a trial by jury.

An unofficially organized juvenile justice system operated in eight of 18 districts in Buenos Aires City. It provides minors between the ages of 16 and 18 with the same procedural rights as adults and limits sentences to 180 days in prison.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

There is an independent and impartial judiciary in civil matters. Citizens have access to the courts to bring lawsuits seeking damages or the protection of rights provided by the constitution.



## **f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

### **Section 2. Respect for Civil Liberties, Including:**

#### **a. Freedom of Speech and Press**

##### **Status of Freedom of Speech and Press**

The constitution provides for freedom of speech and of the press; with exceptions, the government generally respected these rights in practice. The independent newspapers, radio and television outlets, and Internet sites were numerous and active, expressing a wide variety of views. Private media outlets were independent from the national and provincial governments.

Freedom of Press: The Inter American Press Association (IAPA), Argentina's Association of Media Companies, and other organizations expressed concern about the government's conflictive relationship with and indirect censorship of certain media outlets. On October 18, the IAPA General Assembly called on the government to "end the escalation of aggression against media critical [of the government]...cease pressuring the judiciary [on media-related cases]...and administrative harassment of [the sole domestic newsprint manufacturer] Papel Prensa."

On December 28, the president signed into law legislation regulating the "production, commercialization, and distribution" of newsprint paper, establishing a uniform price for all paper and introducing new production requirements for Papel Prensa. While advocates of the law said it "democratizes" access to newsprint, the IAPA described it a violation of the constitution and international treaty obligations, and voiced concerns the law would allow the government to increase its share of Papel Prensa and control paper supply.

Violence and Harassment: On March 28, demonstrators blocked the entrance of the printing plants of *Clarín* and *La Nación*, two of the country's most widely read newspaper dailies, in violation of a 2010 civil court ruling. IAPA described the incident as an "attack against freedom of the press" and regretted the "inaction of

the police in violation of court rulings ordering the national government to guarantee the circulation of communication media.”

On July 8, the Board of the Central Food Market, an organization managed by the city and the province of Buenos Aires and the federal government, ordered its employees to wear caps reading “*Clarín* lies,” in response to an article published in that newspaper. On July 11, a poster with the same message was put out in front of the market. On July 13, the authorities of the market closed down the two news vendor shops in the market on the grounds that “they failed to abide by the market’s rules.” On July 28, a federal court ordered the authorities to allow the sale of newspapers in the market.

Censorship or Content Restrictions: During the year the national, provincial, and municipal governments did not publish complete information on the amount and destination of public funds for advertising. IAPA and other press associations warned about the government’s “discriminatory use of official advertising to reward and punish news media” and “the creation of publicly and privately owned networks of media and journalists” to support the government. Local NGOs expressed concern about delays in the publication of official advertising allocations and a lack of systematic and transparent procedures for their publication.

On March 2, the Supreme Court ordered the Executive Branch to “set a balanced distribution of public advertising among similar media outlets,” as a result of a lawsuit filed by publisher Perfil, in which it accused the government of discrimination because of its coverage. The court determined that the national government had “arbitrarily and discriminatorily” refused to advertise in the media outlets of Perfil Group and ordered the executive to purchase advertising space in those publications, “respecting a reasonable balance” among similar publishers. On May 11, IAPA also denounced the government’s “noncompliance with the court order to restore official advertising to Editorial Perfil.” On October 4, Perfil Group filed a request with a federal court to order the executive branch to comply with the Supreme Court ruling and impose fines on government officials who were allegedly responsible for not allocating public advertising to Perfil. The executive branch had not officially responded to the order at year’s end.

On September 15, a federal court for economic affairs ordered newspapers *Clarín*, *La Nación*, *Ambito Financiero*, *El Cronista Comercial*, *Buenos Aires Económico*, and *Página 12* to provide the contact information, including personal addresses, of each journalist who had reported on the country’s inflation statistics since 2006. The official inflation statistics had been criticized in some newspapers as

inaccurate. The court had previously requested information regarding advertisements for private economic consultants in the newspapers as part of a case filed by the domestic trade secretary accusing those consultancies of publishing erroneous information about the national government's price measurements.

### **Actions to Expand Press Freedom**

The government sought to limit what it considered to be monopolistic practices in the media industry through article 161 of the 2009 media law, which reduces the number of broadcast licenses an individual or company can hold from 24 to 10 and bars cable providers from owning open-air television channels. Article 161 remained suspended during the year, awaiting a Supreme Court ruling on an injunction presented by Clarin Group in 2010. The implementation of the law would force Clarin Group to sell many of its 200 outlets in the country.

On June 21, President Cristina Fernandez de Kirchner announced plans to expand the Terrestrial Digital Television System and launched the bidding process to grant 220 broadcasting licenses to 110 private companies and 110 NGOs, asserting that the initiative would "improve the openness and plurality" of broadcasting.

### **Internet Freedom**

There were no generalized restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail and social networks.

In two separate rulings emitted on August 4, the Federal Criminal Court ordered the closure of LeakyMails, a Web site that published alleged private e-mails of government officials, businessmen, and journalists, on the grounds that it had "violated the right to privacy, published noncommercial correspondence and revealed political and military secrets." To implement the ruling, the government requested Internet service providers block an IP address identified as the LeakyMails Web site, a move that reportedly affected thousands of Internet users.

On March 1, a Federal Appeals Court for Commercial and Civil Affairs confirmed a lower court's suspension of Planning Ministry resolution 100/2010, which barred Clarin Group's Internet service provider Fibertel from providing its service to new customers.

## **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

### **b. Freedom of Peaceful Assembly and Association**

The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt/](http://www.state.gov/j/drl/irf/rpt/).

### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

## **Protection of Refugees**

Access to Asylum: The laws provide for the granting of refugee status, and the government has established a system for providing protection to refugees.

During the first eight months of the year, the National Committee for Refugees granted refugee status to 17 of 24 persons who sought asylum.

Temporary Protection: The government also provided temporary protection for humanitarian reasons to approximately 94 persons during the first eight months of the year.

## **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

### **Elections and Political Participation**

Recent Elections: On October 23, voters reelected President Cristina Fernandez de Kirchner of the Front for Victory Party in polling described by media and various NGOs as free and fair. In concurrent legislative elections, voters elected one-half of the members of the Chamber of Deputies representing all 24 provinces and one-third of those in the Senate representing eight provinces. Local observers considered these elections generally free and fair.

Participation of Women and Minorities: Decrees provide that one-third of the candidates on election slates for both houses of congress must be women. There were 28 women in the 72-seat Senate and 98 women in the 257-seat Chamber of Deputies. The president, two of the seven Supreme Court justices, and three cabinet ministers were women.

There were no known ethnic or racial minorities in the national legislature. There were no known indigenous, ethnic, or racial minorities in the cabinet or on the Supreme Court.

### **Section 4. Official Corruption and Government Transparency**

The law provides criminal penalties for official corruption; however, there were press reports alleging that executive, legislative, and judicial officials engaged in corrupt practices with impunity, suggesting a failure to implement the law effectively.

Weak institutions and an often ineffective and politicized judicial system undermined systematic attempts to curb corruption.

Cases of corruption were reported in some security forces. The most frequent abuses included extortion of, and protection for, those involved in drug trafficking and prostitution. Internal controls to counter police abuses were weak, but improved during the year. Security Minister Nilda Garre, who assumed control of the newly created Ministry of Security in December 2010, took steps to combat corruption in the security forces, notably within the Federal Police Force (PFA). During the year she dismissed several PFA officers accused of corruption. In one

instance, two PFA officers were sentenced to three years in jail for soliciting a bribe from a detained suspect in exchange for releasing him and dropping the case.

Allegations of corruption in provincial courts, as well as in federal courts located in the provinces, were more frequent than in federal courts with jurisdiction over the city and province of Buenos Aires, which reflected strong connections between the executive and judicial branches at the provincial level.

On June 3, a federal judge began an investigation of alleged fraud and misuse of public funds involving Sergio Schoklender, the financial manager of the NGO Madres de la Plaza de Mayo. The NGO had received approximately 765 million pesos (\$186 million) since 2008 through a government contract to build low-income housing throughout the country. Among other allegations, Schoklender was accused of using a construction company to embezzle the public funds and, in a parallel case, national authorities were investigated to determine if they were complicit in the misuse of the funds. During the investigation, Schoklender also alleged government corruption in the allocation of funding for public works, claiming that the monies were sometimes used to pay for political campaigns and that projects were often awarded based on bribes. Schoklender remained free and the investigations continued at year's end.

An investigation of an alleged illegal campaign financing scheme continued during the year. On February 8, Judge Norberto Oyarbide indicted Hector Capaccioli, President Fernandez de Kirchner's 2007 chief fundraiser and former supervisor of health services, for his involvement in the scheme. The trial remained pending at year's end.

The investigation of former transportation secretary Ricardo Jaime continued during the year, and a federal criminal court confirmed it would prosecute Jaime for allegedly receiving illegal gifts and favors during his tenure. The case remained pending at year's end.

On September 14, a federal court acquitted former president Carlos Menem and 17 other officials accused of facilitating 6,000 tons of illegal weapons sales to Ecuador and Croatia in the 1990s. The controversial verdict was the culmination of a 16-year investigation and ruled that the arms sales did not constitute contraband on the grounds that the sales were transparent and executed through decrees legal under the constitution.

Public officials are subject to financial disclosure laws, and the Ministry of Justice's Anti-Corruption Office (ACO) is responsible for analyzing and investigating federal executive branch officials based on their financial disclosure forms. The ACO is also responsible for investigating corruption within the federal executive branch or in matters involving federal funds, except for funds transferred to the provinces. As part of the executive branch, the ACO does not have authority to prosecute cases independently, but it can refer cases to other agencies or serve as the plaintiff and request a judge to initiate a case.

While the country does not have a law that provides for public access to government information, a presidential decree guarantees access to public documents and information that fall within the jurisdiction of the executive. According to local NGOs, freedom of information requests were sometimes rejected arbitrarily.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials usually were cooperative and generally responsive to their views.

During the year the government met with representatives of numerous international and nongovernmental human rights groups, including representatives from Human Rights Watch, the UN Human Rights Committee, the International Labor Organization (ILO), and the IACHR to discuss human rights. The government was responsive to these organizations.

### **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally enforced these prohibitions in practice.

#### **Women**

Rape and Domestic Violence: Rape, including spousal rape, is a crime, but evidentiary requirements, either in the form of clear physical injury or the testimony of a witness, often presented difficulties in prosecuting such crimes. The penalties for rape ranged from six months' up to 20 years' imprisonment.

There were no reports of police or judicial reluctance to act on rape cases; however, women's rights advocates claimed that police, hospital, and court attitudes toward sexual violence survivors sometimes revictimized the individual.

The Rape Victims' Association reported more than 2,900 rape cases in Buenos Aires City and Buenos Aires Province during the year. The NGO estimated that 80 percent of those cases involved victims under the age of 18. The NGO noted that these figures did not include rapes reported directly to the municipal, provincial, and national governments. Many rapes go unreported due to fear of further violence, retribution, and social stigma.

The law prohibits domestic violence, including spousal abuse, although it defines violence against women as a misdemeanor, and complaints are addressed in civil rather than criminal courts. Family court judges have the right to bar a perpetrator from a victim's home or workplace. The law, however, prescribes penalties for domestic violence only when it involves crimes against sexual integrity, in which case the penalty can be as much as 20 years' imprisonment. According to local NGOs, lack of police and judicial vigilance often led to a lack of protection for victims.

Domestic violence against women was a problem. In 2009 Amnesty International reported that a woman died every three days as a result of domestic violence. The civil society organization La Casa del Encuentro reported that 282 women died during the year as a result of domestic or gender-based violence, an increase of 8 percent from 2010 figures. Approximately one third of these cases occurred in Buenos Aires Province. Of these killings, 56 percent involved a husband, boyfriend, or ex-boyfriend; in at least 31 cases, the woman had filed a complaint against the aggressor for domestic violence.

The Supreme Court's Office of Domestic Violence provided around-the-clock protection and resources to victims of domestic violence. The office received approximately 600 cases of domestic violence each month, an estimated 60 percent of which involved violence against women. Approximately 54 percent of cases involved situations in which the victim's life was at risk. The office also carried out risk assessments necessary to obtain a restraining order.

The Ministry of Justice continued to operate mobile units to assist victims of sexual and domestic violence in the city of Buenos Aires. A free hotline servicing the city and the province of Buenos Aires offered consultations and received complaints.



Public and private institutions offered prevention programs and provided support and treatment for abused women. The Buenos Aires municipal government operated a small shelter for battered women; however, few other shelters existed.

Sexual Harassment: Sexual harassment in the public sector is prohibited under laws that impose disciplinary or corrective measures. In some jurisdictions, such as Buenos Aires City, sexual harassment may lead to the abuser's dismissal, whereas in others, such as Santa Fe Province, the maximum penalty is five days in prison.

Reproductive Rights: Couples and individuals generally had the right to decide freely the number, spacing, and timing of children, and had the information and means to do so free from discrimination, coercion, and violence. Access to information on contraception, and skilled attendance at delivery and in postpartum care were widely available. The law requires the government to provide free contraceptives; however, Human Rights Watch reported in April that birth control materials often were unavailable due to the government's "failure to purchase and distribute" them in practice. Women and men had equal access to diagnostic services and treatment for sexually transmitted infections.

Discrimination: Although women enjoyed equal rights under the law, including property rights, they continued to face economic discrimination and held a disproportionately high number of lower-paying jobs. Women also held significantly fewer executive positions in the private sector than men, according to several studies. Studies estimated that women earned approximately 40 percent less than men for similar or equal work, and only 58 percent participated in the labor force, compared with 82 percent of men.

The Supreme Court's Office of Women trains judges, secretaries, and clerks to deal with court cases related to women; it also seeks to ensure equal access for women to positions in the court system.

## **Children**

Birth Registration: The country provided universal birth registration, and citizenship was derived both by birth within the country's territory and from one's parents. Parents have 40 days within which to register births, and the state has an additional 20 days to do so. The Ministry of Interior may issue birth certificates to children under age 12 whose births have not been previously registered.

Child Abuse: Child abuse was not uncommon; for example, the Office of Domestic Violence reported that between 30 and 35 percent of the cases it received per month involved children.

Sexual Exploitation of Children: According to media sources, approximately 5,000 children are recruited every year for pornography and sex tourism. The minimum age of consensual sex is 18. There is a statutory rape law with penalties ranging from three to 15 years in prison, depending on the age of the victim. Additionally, regardless of age, if a judge finds evidence of deception, violence, threats, abuse of authority, or any other form of intimidation or coercion, the minimum sentence increases to 10 years.

Several cases of child sexual abuse were reported during the year. For example, in October the Oral Court of Tigre sentenced a priest to nine years' imprisonment for sexually abusing four children between the ages of 11 and 14 years.

The law prohibits the production and distribution of child pornography with penalties ranging from six months to four years in prison. While the law does not prohibit the possession of child pornography by individuals for personal use, it provides penalties ranging from four months to two years in prison for possession with the intent to distribute child pornography. Additionally, the law provides penalties ranging from one month's to three years' imprisonment for facilitating access to pornographic shows or materials to minors under the age of 14.

During the year prosecutors and police pursued cases of Internet child pornography. In May federal police conducted several raids in Buenos Aires as part of an international investigation and arrested 16 persons accused of trafficking media in an international child pornography ring. Police confiscated electronic devices carrying more than 10,000 photos of children, primarily ages two to 10, but released the offenders following an interrogation by a national judge. An investigation into whether the offenders distributed child pornograph continued at year's end.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html).

## Anti-Semitism

The Jewish community consisted of approximately 250,000 members. Sporadic acts of anti-Semitic discrimination and vandalism continued. The Delegation of Argentine Jewish Associations (DAIA) received 274 complaints of anti-Semitism during 2010, representing a decrease of 80 percent from 2009. A poll conducted by the Anti-Defamation League and the DAIA found “ingrained, pervasive” anti-Semitic attitudes. Most poll respondents indicated they believed Jews had too much power in the business world and were more loyal to Israel than to Argentina.

The most commonly reported anti-Semitic incidents were graffiti, verbal slurs, and the desecration of Jewish cemeteries. On two occasions Jewish leaders were assaulted verbally and physically outside of religious institutions. Both of the attacks took place during or around Jewish holidays. In a separate isolated incident, authorities dismissed a Buenos Aires metropolitan police officer after they discovered the officer’s membership in an anti-Semitic youth organization. Most complaints were filed in Buenos Aires City, and the DAIA claimed that cases in the provinces were likely underreported.

In June DAIA authorities filed a formal complaint with the Anti-Semitism Division of the PFA against union leader Luis D’Elia for making anti-Semitic statements. In a radio interview, D’Elia commented on a court case involving Sergio Schoklender and the Madres of the Plaza de Mayo, calling Schoklender and others under investigation “countrymen.” The DAIA alleged that D’Elia’s statements were an attempt to “discredit” Schoklender based on his Jewish background. A public prosecutor indicted D’Elia for allegedly violating the Anti-Discrimination Law, and the case remained open at year’s end.

In May the DAIA won an injunction against Google requiring that its search engine stop displaying links to anti-Semitic Web sites. The judge ordered Google to remove the links to such sites and halt all advertising of them.

The investigation into the 1994 bombing of the Argentina Israelite Mutual Association (AMIA) community center in Buenos Aires that killed 85 persons continued. With Interpol assistance, the federal prosecutor investigating the case continued to seek the arrest of eight Iranians for their alleged involvement in the bombing. In July the Iranian Foreign Ministry notified the government of its interest in “cooperating” in the investigation. In September President Fernandez de Kirchner stated the government “could not and should not” reject Iran’s offer of

a dialogue, but the government of Iran did not respond publicly to the president's statement by year's end.

An investigation into an alleged "cover-up" in the AMIA case involving former president Carlos Menem and former federal judge Juan Jose Galeano continued at year's end.

The government continued to support public dialogue to highlight past discrimination and to encourage religious tolerance, including the celebration of Freedom of Religion Day.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **Persons with Disabilities**

The constitution and laws prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services. A specific law also mandates access to buildings for persons with disabilities. While the federal government has protective laws, many states have not adopted the laws and have no mechanisms to ensure enforcement. An employment quota law reserves 4 percent of federal government jobs for persons with disabilities, but NGOs and special interest groups claimed the quota often was not respected in practice.

According to the Ministry of Labor's Office for Disabled Persons, more than 12,000 persons with disabilities had obtained jobs through Ministry of Labor programs in the city of Buenos Aires as of May 27. The programs included various benefits for disabled workers, such as free job training programs.

A pattern of inadequate facilities and poor conditions continued in some mental institutions. For example, the Jose T. Borda Hospital Psychiatric Hospital in Buenos Aires remained in poor condition and failed to provide basic necessities to patients, according to local human rights organizations and press reports. In July the Ombudsman's Office reported that the hospital lacked gas supplies, heating, and warm water for three months during the winter.

The National Advisory Committee for the Integration of People with Disabilities, under the National Council for Coordination of Social Policies, has formal responsibility for actions to accommodate persons with disabilities.

The government's actions to improve respect for the rights of persons with disabilities included a program that Buenos Aires Province started in September establishing economic incentives for municipalities that hire persons with disabilities to serve as civil servants. The program stipulated that municipalities participating in the program would receive a subsidy payment from the provincial Ministry of Labor.

### **Indigenous People**

The constitution recognizes the ethnic and cultural identities of indigenous people and states that the congress shall protect their right to bilingual education, recognize their communities and the communal ownership of their ancestral lands, and allow for their participation in the management of their natural resources. In practice indigenous people did not fully participate in the management of their lands or natural resources, in part because responsibility for implementing the law is delegated to the 23 provinces, only 11 of which have constitutions recognizing indigenous rights.

Although there is no formal process to recognize indigenous tribes or determine who is an indigenous person, indigenous communities can register with the provincial or federal government as civic associations.

Estimates of the indigenous population ranged from 700,000 to 1.5 million. Poverty rates were higher than average in areas with large indigenous populations. Indigenous people had greater than average rates of illiteracy, chronic disease, and unemployment. Indigenous women faced further discrimination based on gender and reduced economic status. The lack of trained teachers hampered government efforts to offer bilingual education opportunities to indigenous people.

For example indigenous peoples in the provinces of Neuquen and Formosa continued to lack adequate participation in decisions affecting their ancestral lands; in some cases these decisions endangered the health and welfare of indigenous communities. In April the IACHR ordered the national government to "guarantee life and personal integrity" to both the Paichil Antrio people of Neuquen and the Toba people of Formosa, who had denounced being harassed and dispossessed from their lands by their provincial governments for several years. On June 16, the

Human Rights Ombudsman's Office issued a report on the indigenous rights situation in Formosa, stating that many indigenous communities lacked "basic rights," such as access to clean water and health services. In July the NGO Observatory of the Human Rights of Indigenous Peoples reported that at least 250 indigenous people from Neuquen were being prosecuted by the courts for defending their ancestral lands.

Following a violent conflict in Formosa in November 2010, the indigenous Toba group called on the national government to mediate a solution between the group and provincial authorities. On December 30, 2010, national authorities signed an agreement with the Toba in which they pledged to oversee the return of ancestral land, provide official identification documents to the members of the community, and ensure minimum sanitary and security conditions. In the months following the agreement, the Toba group and human rights observers alleged that the provincial government failed to comply with the terms set forth. Community members, meanwhile, carried out a hunger strike in downtown Buenos Aires in protest. In May the Minister of Interior met with the group's leaders and promised to carry out land surveys, ending the hunger strike and reportedly quelling some of the concerns of human rights groups and community leaders. Although discussions continued, there was no known progress on the land surveys.

### **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

Lesbian, gay, bisexual, and transgender organizations operated freely. They worked closely with academic institutions, NGOs, and government authorities without interference.

There was no official discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care. Overt societal discrimination generally was uncommon.

Three provinces still have laws that either criminalize transgender behavior or single out same-sex sexual activity when referring to prostitution; however, the National Institute Against Discrimination, Xenophobia, and Racism reported that these laws were rarely enforced.

### **Other Societal Violence or Discrimination**

There were no known reports of societal violence against persons with HIV/AIDs, but there were occasional reports of discrimination against persons with the disease. For example, a study by the Huesped Foundation reported that 94 percent of persons living with HIV or AIDS had suffered at least one instance of discrimination or stigmatization.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

With some restrictions, the law provides all workers the right to form and join “free and democratic labor unions, recognized by inscription in a special register,” and protects the rights to conduct legal strikes and to bargain collectively. Military and law enforcement personnel are prohibited from forming and joining unions. The law prohibits antiunion discrimination, and provides broad protection to workers against dismissal, suspension, and changes in labor conditions. The law provides for reinstatement for workers fired for union activity.

The law allows unions to register without prior authorization, and registered trade union organizations may engage in certain activities to represent their members, including petitioning the government and employers, and adopting direct action measures. However, the law grants official trade union status to only one union deemed the “most representative” per industrial sector within a specific geographical region. Only unions with such official recognition receive trade union immunity for their officials, are permitted to directly deduct union dues, and may bargain collectively. In February the ILO raised concerns with the government with respect to these provisions of the law.

The Argentine Workers Central (CTA) and other labor groups not affiliated with the General Confederation of Labor continued to contend that the legal recognition of only one union per sector conflicted with international standards and prevented these unions from obtaining full legal standing. Despite a 2009 Supreme Court ruling in favor of the CTA and other unions seeking formal legal recognition, which would necessitate changes to current legislation and practice, the congress had not modified labor legislation, and the executive branch had not granted such recognition to the CTA at year’s end. In February the ILO reiterated the need to amend current legislation and to provide the CTA with state recognition.

Civil servants and workers in essential services may strike only after a compulsory 15-day conciliation process, and they are subject to the condition that undefined

“minimum services” be rendered. Once the conciliation term expires, civil servants and workers in essential services must give five days’ notice to the administrative authority and the public agency that they intend to strike. If “minimum services” have not previously been defined in a collective bargaining agreement, all parties then negotiate which minimum services will continue to be provided and a schedule for their provision. The public agency, in turn, must provide two days’ notice to users about the intended strike.

The law provides trade unions with official status the right to negotiate collective bargaining agreements, including recourse to conciliation and arbitration. The most representative union bargains on behalf of all workers and collective agreements cover both union members and nonmembers in the sector. The law requires the Ministry of Labor, Employment, and Social Security to ratify collective bargaining agreements.

The government effectively enforced these laws in practice. Workers exercised freedom of association and the right to strike. Worker organizations were independent of government and political parties. Unions without official trade union status recognition by the government (that is, those that were not the “most representative”) in their sector have made membership gains within the workplace.

There were no known cases of significant delays or appeals in the collective bargaining process. During the year rural workers negotiated with agricultural business leaders a sector-wide salary increase of 35 percent; however, the government refused to approve the collective agreement, provoking complaints from the rural workers union and threats to blockade roads. At year’s end the rural workers union filed a complaint requesting judicial mediation to resolve the conflict.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor, and the government generally enforced such laws. However, there were some reports that forced labor occurred in practice.

There were reported cases of labor exploitation, including forced labor, of Argentine citizens as well as migrant workers from Bolivia, Paraguay, and Peru in sweatshops, fruit and vegetable stores, groceries, agriculture, domestic service, and street sale. International organizations reported a continuous rise of unaccompanied children and teenagers who are victims of labor exploitation.



The Office of Rescue and Victims' Assistance under the Ministry of Justice and Human Rights reported rescuing 638 victims of forced labor during the year. In early September a federal court in Buenos Aires province rendered the first labor trafficking conviction since the passage of the 2008 law. A Bolivian citizen and owner of a sweatshop who had recruited three Bolivian women under false promises was sentenced to four years in prison.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The minimum age for employment is 16 years old. In rare cases, the respective labor authority may authorize a younger child to work as part of a family unit. Children between the ages of 16 and 18 years may work in a limited number of job categories and for limited hours if they have completed compulsory schooling, which normally ends at age 18. Children under 18 cannot be hired to perform perilous, arduous, or unhealthy jobs. In December this prohibition expanded to include rural workers as well, and the congress passed a law to amend rural working conditions. The law requires employers to provide adequate care for workers' children during work hours to discourage child labor.

Provincial governments and the city government of Buenos Aires are responsible for labor law enforcement. Legal penalties for employing underage workers ranged from 1,000 to 5,000 pesos (\$240 to \$1,200) for each child employed. Subsequent violations allow the labor authority to close the company for up to 10 days, and the company is then prevented from becoming a vendor to the government for a year. According to the Ministry of Labor, there were more than 96,000 labor inspections during the year. However, no information is available regarding the results of such inspections.

The National Commission for the Eradication of Child Labor (CONAETI) continued to conduct seminars with the 22 provincial commissions for the eradication of child labor to train provincial authorities responsible for enforcing labor laws and raising awareness regarding exploitive child labor. It also continued providing technical assistance to NGOs addressing child labor in the tobacco and trash-picking sectors. CONAETI also trained members of the Network of Businesses against Child Labor and encouraged expansion of the network's "Harvest Gardens" program, which provided several daycare centers for

children in tobacco-producing zones. In August the first “Harvest Garden” outside the tobacco sector opened in a strawberry-growing area.

The government continued its Heads of Household initiative, a cash transfer and employment training program, to workers in the informal economy. The government incorporated 247 adults into the Heads of Household program during the year. Also, as part of the implementation of the National Plan for the Prevention and Eradication of Child Labor, CONAETI continued awareness-raising activities such as a national campaign against forced child labor; identified and strengthened direct action programs to prevent and combat child labor; and conducted trainings for health professionals on child labor.

The government continued implementing the Universal Child Allowance program, a cash subsidy granted to families with up to five children under 18 years of age when either parent is unemployed, is an unregistered worker earning less than the minimum wage, or is a “self employed” worker that pays a small-business tax. The program is aimed at improving child nutrition, increasing school attendance, and reducing child labor, as families are required to prove children attended school and received vaccinations in order to collect the monthly allowance. According to UNICEF, 3.6 million people benefit from the allowance.

Child labor persisted in practice. A 2004 government survey revealed that an estimated 450,000 children were working, or 7 percent of children between the ages of five and 13 years and 20 percent of children over the age of 14. In rural areas children worked in family and third-party farms producing such goods as blueberries, cotton, garlic, grapes, olives, strawberries, tobacco, tomatoes, and yerba mate. Children working in the agriculture sector often handled pesticides without proper protection. In urban areas some children engaged in domestic service and worked on the street selling goods, shining shoes, and recycling trash. According to government sources, some children worked in the manufacturing sector producing such goods as bricks, matches, fireworks, and garments. Children were also found working in the mining, fishing, and construction sectors.

Also see the Department of Labor’s *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

#### **d. Acceptable Conditions of Work**

The government increased the monthly minimum wage for most workers in September to 2,300 pesos (\$550). This exceeded the amount of 1,386 pesos (\$324)

a month that the National Census and Statistics Institute estimated was needed by a family of four to remain above the poverty line.

Federal labor law sets standards in the areas of health, safety, and hours. The maximum workday is eight hours, and the maximum workweek is 48 hours. Overtime pay is required for hours worked in excess of these limits. The law sets minimums for periods of rest, requiring a minimum of 12 hours of rest to start a new workday. Sundays are holidays, and those required to work on Sundays are paid double. Paid vacations are mandatory for all workers for a minimum of 14 days and a maximum of 35 days, depending on the length of their service.

The law sets premium pay for overtime, adding an extra 50 percent of the hourly rate on ordinary days and 100 percent on Saturday afternoons, Sundays, and holidays. Employees cannot be forced to work overtime unless work stoppage would risk or cause injury, the need for overtime is caused by an act of God, or other exceptional reasons affecting the national economy or “unusual and unpredictable situations” affecting businesses occur. Workers have the right to remove themselves from dangerous or unhealthy work situations without jeopardy to continued employment. However, workers who leave the workplace before it has been proven unsafe risk being fired; in such cases, the worker has the right to judicial appeal, but the process was typically very lengthy.

The law requires employers to insure their employees against accidents at the workplace and when traveling to and from work. The law requires that employers either provide insurance through a labor risk insurance entity or provide its own insurance to employees to meet specified requirements set forth by the national insurance regulator.

Domestic employees, rural workers, free lance workers, and the volunteer firemen corps are excluded from the above provisions regarding minimum wages, hours of work, and occupational safety and health. The law includes separate minimum wage and hour regulations for domestic employees and rural workers.

Laws governing acceptable conditions of work were not enforced universally, particularly for workers in the informal sector. The Ministry of Labor had responsibility for enforcing legislation related to working conditions. The ministry continued inspections to get companies to register their informal workers. During the year the government increased labor inspections to detect unregistered or compulsory work, mainly in rural areas. The Ministry of Labor reported that its 479 labor inspectors undertook more than 96,000 inspections during the year.

However, information was unavailable regarding irregularities encountered by inspectors and fines or penalties imposed. According to a 2007 ILO study, 60 percent of employed citizens ages 15 to 24 were engaged in informal labor. The Superintendence of Labor Risks serves as the enforcement agency to monitor compliance of health and safety laws and the activities of the labor risk insurance companies.

In practice, most workers in the formal sector earned significantly more than the minimum wage. Generally speaking, the minimum wage served to mark the minimum pay an informal worker should get, although formal workers' pay was usually higher. Major labor accidents occurred in the construction, transport, and agriculture sectors. According to the Labor Risk Superintendency, there were 61.6 worker fatalities per million workers. Agriculture recorded 184.6 per million workers, construction had 196.7 per million, and transport had 157.2 per million. During the year the government intensified labor inspections in rural areas and identified 797 victims of labor exploitation, according to the Office of Rescue under the Ministry of Justice and Human Rights. Most cases reflected similar patterns: victims had been deprived of their documents, lived in precarious housing without electricity or water, lacked restrooms, and experienced pay deductions for the cost of clothes and food.