

## **ARGENTINA**

Argentina is a federal constitutional republic with a population of approximately 40.1 million. Cristina Fernandez de Kirchner won the presidency in October 2007 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 following human rights problems were reported: killings and use of excessive force by police or security forces; police abuse and alleged torture of criminal suspects and prison guard brutality toward prisoners; overcrowded and substandard prison and jail conditions; occasional arbitrary arrest and detention; prolonged pretrial detention; continued concerns about judicial efficiency and independence; official corruption; domestic violence against women; child abuse; trafficking in persons for sexual and labor exploitation, primarily within the country; and child labor.

### **RESPECT FOR HUMAN RIGHTS**

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 219 persons between mid-November 2009 and mid-November of this year. The Center for Legal and Social Studies (CELS) reported a 12 percent increase in deaths as a result of police using unwarranted or excessive force from June 2008 to June 2009.

On June 17, police officer Sergio Colombil reportedly shot and killed 15-year-old Diego Alexandre Bonefoi in Bariloche. Police claimed Bonefoi was attempting to escape from an armed robbery. A provincial court charged Colombil with homicide qualified by abuse of his authority as a police officer. On December 23, a Bariloche criminal court judge announced the case would go to trial. Colombi remained in pretrial detention at year's end. At a march to protest Bonefoi's death

hours after the shooting, police shot and killed teenagers Nicolas Carrasco and Sergio Cardenas. An investigation into the killings continued at year's end.

On August 12, a trial began in the case of an off-duty police officer who killed a 26-year-old man at a nightclub in Zarate in July 2009. On September 7, the First Oral Tribunal of Zarate sentenced the officer to life imprisonment for homicide.

Officers Daniel Alberto Fernández and Jorge Alberto Conde, who reportedly shot 15-year-old Juan Carlos Quiroz in Pergamino in October 2009, were arrested during the year according to a report by CELS. Fernández was charged with homicide qualified by abuse of authority, and Conde was charged as a participant in the crime. Both remained in pretrial detention at year's end.

On December 21, a trial began in the case of Sergeant Sergio Borgino, charged with the 2009 killing of a 16-year-old boy in Mendoza Province. The trial continued at year's end.

There was no prosecution or investigation in the case against two police officers allegedly involved in the 2008 killing of Sergio Enciso in Buenos Aires Province.

On April 30, a criminal court in La Plata sentenced ex-sergeant Santiago Regalia to life imprisonment for the 2007 killing a 17-year-old who was handcuffed in a patrol car.

On August 25, a criminal court annulled the 2009 acquittal of five police officers and the police chief of Ramos Mejia in Buenos Aires Province, who were charged with the 2008 murder of Gaston Duffau. The court called for the officers to be retried.

The investigation regarding the 1991 police killing of Walter Bulacio continued as recommended by the Inter-American Court on Human Rights. On September 20, CELS requested that the Council of Magistrates initiate a suit against Alicia Lemini, the judge in charge of the Bulacio case, for "favoring impunity" in the investigation.

#### b. Disappearance

There were no reports of politically motivated disappearances.

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. CELS estimated that there were 284 ongoing judicial investigations and 726 persons charged for crimes against humanity committed during the military dictatorship. Of those charged, 422 remained in pretrial detention. According to the Supreme Court's Office for Follow-up on Crimes Against Humanity, during the year the courts convicted 98 perpetrators of human rights abuses committed during the 1976-83 military dictatorship and continued trials that were suspended in 1989-90 when the government pardoned such perpetrators. An additional 70 cases were pending at year's end. High-profile cases included:

- On April 13, the Federal Court of Santa Fe sentenced former military intelligence officer Horacio Americo Barcos to 11 years in prison for illegal deprivation of freedom and torture in two cases. This conviction combined with an earlier punishment for extortion increased Barcos' total sentence to 15 years' imprisonment.
- On April 21, a federal criminal court convicted and sentenced former president and general Reynaldo Benito Antonio Bignone to 25 years in prison for crimes committed during the military regime. Bignone, along with five other military officers, was convicted on 56 counts of kidnapping and torture at Campo de Mayo, one of the country's largest clandestine detention centers during the military dictatorship.
- On June 3, a trial for 10 former military officers involved in the "Margarita Belen Massacre" began at the Federal Court of Resistencia. The officers were accused of torturing and killing more than 20 political prisoners on December 13, 1976, in the province of Chaco. The trial continued at year's end.
- On July 2, a trial began in Cordoba against ex-president Jorge Rafael Videla. Videla, former military general Luciano Benjamin Menendez, and 29 other defendants were charged for the murder of 31 political prisoners between April and October of 1976. In the trial, Videla declared that he accepted responsibility as the highest military authority during the dictatorship, and subordinates followed his orders. On July 8, Menendez was sentenced to life imprisonment for illegal deprivation of freedom, aggravated torture, and homicide. On December 22, Videla was sentenced to life imprisonment for the torture and murder of the 31 prisoners.

There were no developments in the investigation of Ernesto Barreiro, who remained in pretrial detention for human rights abuses he allegedly committed while serving as army officer and chief interrogator at the La Perla clandestine torture center during the military dictatorship.

There were no developments in the trial of former police officers Fernando Esvedes and Carlos Vercellone, arrested in 2008 for their alleged role in political kidnappings and torture in the clandestine detention center Pozo de Arana during the military dictatorship.

Judicial authorities continued to investigate cases of kidnapping and illegal adoption by members of the former military dictatorship of children born to detained dissidents. At year's end, 102 of an estimated 500 persons born to detained and disappeared dissidents and illegally adopted had been identified and made aware of their backgrounds, according to the NGO Abuelas de Plaza de Mayo.

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 National Public Prosecutor, Amnesty International (AI), the Buenos Aires Provincial Memory Commission's Committee against Torture, and the Inter-American Commission on Human Rights (IACHR) rapporteur on the rights of persons deprived of liberty, reported that some police and prison guards continued to employ torture and brutality.

CELS and the National Public Prosecutor reported police brutality and occasional alleged torture of suspects, particularly during prison transfers. While the government investigated such reports, there were few convictions.

A Neuquen court announced on May 4 that it would hear a case against 27 correctional service officers for alleged torture committed against 45 detainees at detention facilities in the province in 2004. On May 27, the court sentenced six officers to three to four years in prison for "severe brutality and humiliation," declaring that the case lacked the specific conditions to qualify as torture. The court acquitted the remaining 21 officers.

According to a June report of the Buenos Aires Provincial Memory Commission's Committee against Torture, an autonomous office established by the provincial government, practices such as beatings, the use of a cattle prod, cold water showers, and forced isolations within Buenos Aires prisons were common.

In June the IACHR rapporteur on the rights of persons deprived of liberty expressed "deep concern" about detention center conditions. The rapporteur reported that from February to June, there were 241 cases involving alleged torture and other cruel, inhumane, or degrading treatment, of which 115 cases were formally reported to authorities.

### 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. The number of prisoners in Buenos Aires provincial penitentiaries exceeded facility capacity by an estimated 66 percent. A UN Human Rights Committee report released in March commented on the frequent use of torture and cruel or degrading treatment in police stations and prisons.

A report by the Center for Studies in Criminal Policy and Human Rights (CEPOC), an NGO that promotes public policies that respect prisoners' rights, estimated that there were 80 prison deaths in 2009. Of these deaths, 37 percent were by hanging while others were attributed to fights, general injuries, and diseases. CEPOC indicated the majority of suicides were linked to poor prison conditions.

In November 2009 the Supreme Court of Justice ordered Mendoza Province to improve the Boulogne Sur Mer prison facilities, giving the province 60 days to develop a working plan. In February a group of human rights lawyers from Mendoza appealed to the Inter-American Court of Human Rights on behalf of prisoners, claiming that the government of Mendoza failed to develop such a plan.

While women were held separately from men, the law permits children to stay in prison with their mothers until age four. According to the Federal Penitentiary Service, 50 children under the age of four lived with their mothers in federal prisons as of August. CELS reported that 91 children remained with their mothers in Buenos Aires provincial prisons as of July. There were 789 women in federal prisons as of December. Women constituted 9 percent of the overall prison

population, which included 30,000 in the Buenos Aires provincial prisons. 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, although separate from adult detainees. The Buenos Aires Provincial Memory Commission's Committee against Torture estimated overcrowding in Buenos Aires Province juvenile facilities at 30 percent.

According to the NGO United Civil Association for Justice, juvenile detention facilities in Buenos Aires Province were often in a poor state of security, health, and infrastructure. The association reported overcrowded conditions, with inadequate psychological services and understaffing. The Buenos Aires Provincial Memory Commission's Committee Against Torture indicated that approximately 6,500 complaints of human rights violations against juvenile detainees were filed in provincial prisons and juvenile detention facilities in Buenos Aires Province in 2008, the majority of which were pending investigation at year's end. The Provincial Memory Commission's 2010 annual report indicated that there is a grave lack of information published by the government about juvenile prisons. The commission reported that currently neither the provincial ministry of social development nor the provincial ministry of security has published statistics describing the situation of juvenile detainees. CELS estimated that 53 percent of those in federal prison were awaiting trial. According to 2009 press reports, 85 percent of female pretrial detainees and 76 percent of male pretrial detainees were held in locations with convicted prisoners.

In October an appeals court in La Plata acquitted 15 prison guards accused of abandoning prisoners in a 2005 fire that killed 33 prisoners. However, on December 10, the Buenos Aires Provincial Memory Commission announced it would appeal the decision. The Provincial Prison Director, Carlos Tejeda, remained under investigation for manslaughter at year's end.

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.

The IAHR reporter reported examples of authorities unwilling to investigate cases and reprimand officials found of wrongdoing and document the results of such investigations in a publicly accessible manner.

The government permitted independent prison visits by local and international human rights observers, and such visits took place during the year. The government investigated and monitored prison and detention center conditions. The National Public Prosecutor's Office, which serves as an ombudsman on behalf of prisoners and detainees, was established as an autonomous governmental institution when congress ratified the Optional Protocol to the UN Convention Against Torture in 2004.

The IACHR rapporteur reported government efforts to improve prison conditions in the province of Buenos Aires. Provincial authorities informed the rapporteur about a program to build 23 departmental detention centers with a new system for provisional detention, and the provincial government inaugurated the first center built under the program on December 13. The provincial government also operated a group home program for prisoners in order to deal with the issue of overcrowding, with 12 houses for 108 prisoners in use as of May, according to press reports.

#### 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. Additionally, each province has its own police force that responds to a provincial security ministry or secretariat, and the City of Buenos Aires formed its own metropolitan police force in 2008. 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. The government established a new Ministry of Security in December, in part to address police abuse and corruption.

According to the Ombudsman's Office of the City of Buenos Aires, complaints of police misconduct increased since 2008. The Ombudsman Office's report, issued in December 2009, analyzed 20 cases involving the federal police and warned of a tendency toward excessive or disproportionate use of force, often applied against persons from vulnerable social sectors. The Ombudsman's Office concluded that such cases failed to comply with international standards of human rights and constituted crimes worthy of investigation by criminal courts. According to a follow-up report the Ombudsman's Office released on September 23, excessive use of force by federal police continued to be a grave problem during the year, and the government took no significant actions to address it.

#### Arrest Procedures and Treatment While in Detention

Persons generally were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official; however, 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.

The law provides for the right to bail, except in cases involving narcotics, violent crimes, and firearms violations. In April the City of Buenos Aires passed a law reducing the possibility of bail for crimes in which firearms were involved and for crimes committed by minors. Although the bail system was used, civil rights groups claimed that the new law encouraged judges to order the holding of indicted suspects in preventive or pretrial detention instead of allowing suspects to remain free pending their trial, putting extra stress on already-overcrowded prisons.



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. Strong demand and a lack of resources for the Public Defender's Office resulted in an excessive caseload for public defense attorneys. Although there were no official statistics on the percentage of detainees requesting public defense attorneys, human rights organizations estimated that 80 percent requested public defense attorneys. According to the Provincial Memory Commission's Committee against Torture, 95 to 97 percent of pretrial detainees in Buenos Aires Province cannot afford a lawyer. Detainees were allowed access to family members, although not always promptly.

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 in pretrial detention. According to several human rights organizations, 30 percent of pretrial detainees were eventually acquitted.

During the year there were occasional reports of arbitrary arrests for expressing views critical of the government. According to press reports, Guillermo Gonzalez del Castillo, a journalist from Corrientes, was beaten while detained following a minor altercation in April, two years after he had criticized the former governor of Corrientes for alleged embezzlement of government advertising funds.

In April 2009 a witness to the burning of a prison in Santiago del Estero was detained without court order and did not receive notification of a trial. A local court rejected his release without having formalized his detention. While in prison, he was reportedly beaten by prison guards and raped by another prisoner since being incarcerated.

e. Denial of Fair Public Trial

The law provides for the right to a fair trial, and the judiciary generally enforced this right. However, judicial scholars continued to report inefficiencies and delays

in the judicial system. Additionally, there were complaints that judges were at times subject to political manipulation.

The Study Forum on the Administration of Justice and the Association for Civil Rights expressed concern for an increasing number of public clashes between the Supreme Court and the executive branch. On several occasions, the forum asserted that the executive failed to take actions prescribed by certain rulings, high-level officials exerted public pressure on judges, and the executive branch imposed budgetary restrictions upon the court. For example, the federal government refused to enforce a Supreme Court order to restore a previously dismissed official to his position. In October NGOs Poder Ciudadano and the Center for the Implementation of Public Policies for Equity and Growth sent a letter to the UN Human Rights Committee's special rapporteur on magistrate and lawyer independence to express concern over the situation. Other analysts commented that the Supreme Court exerted its independence over the executive branch in these conflicts.

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. 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.

The country continued to lack a sufficient number of judges. As of September, 208 federal judgeships (approximately 20 percent of the total) were vacant. Candidates for 113 of those positions had been nominated by the Council of Magistrates and awaited executive approval. Approximately 50 judgeships were held by justice officials acting as temporary judges, a mechanism ruled unconstitutional by the Supreme Court in 2007.

### Trial Procedures

Trials are public, and defendants have the right to legal counsel and to call defense witnesses in federal courts and some provincial courts that have an accusatory system of criminal justice. Defendants enjoy a presumption of innocence and have the right to appeal. 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, 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.

The human rights organization, Fundacion Sur, observed that the juvenile justice system does not provide adolescents due process protections equal to the rights extended to adult defendants in criminal trials. In addition this organization expressed concern that the broad discretion judges have in such cases increased the possibility of arbitrary rulings. Fundacion Sur asserted that 16- and 17-year-old offenders frequently were transferred to adult criminal courts or held in juvenile detention facilities for longer periods than warranted by their offenses.

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. Administrative and judicial remedies are available for alleged wrongs.

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

The constitution prohibits such actions, and the government generally respected these prohibitions in practice. However, there were press reports and judicial

investigations of electronic eavesdropping, possibly perpetrated by government agents without due authorization.

Opposition leaders, journalists, and judges continued to allege that the Kirchner administration used the intelligence community to wiretap private conversations. In July the opposition in congress initiated an investigation into these claims through the Joint Intelligence and Security Agency Oversight Committee.

Allegations of wiretapping extended beyond the federal level of government. Ciro James, a former federal police officer with alleged links to the government of Buenos Aires City, who had been arrested and indicted for illegally wiretapping numerous individuals, was released from pretrial detention on December 23 and remained free at year's end. As a consequence of the highly politicized scandal, federal prosecutors also initiated a case against Buenos Aires Mayor Mauricio Macri. The case and investigation led by a special committee in the city legislature continued at year's end.

## Section 2 Respect for Civil Liberties, Including

### a. Freedom of Speech and Press

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

The independent media were numerous and active, expressing a wide variety of views.

Most media outlets were owned by large, private holding companies that had a wide range of outside business interests and political connections that influenced the content of reporting. Observers noted that some media conglomerates used media as a tool to generate criticism of government policies, while certain progovernment outlets consistently ran stories supporting the government's critical line against specific media organizations and individuals.

On March 20, the Inter American Press Association released a report asserting that the government conducted "campaigns against the right to inform" and attempted to "damage the credibility of the media." Less than a month later, the Association of Press Institutions of Argentina issued a statement warning that the press was "facing one of its worst moments in history, as a result of the high level of intolerance to information and dissident opinion."

During the year critics noted that the government sought to silence dissenting opinions in the media through various actions. NGOs Poder Ciudadano and the Association for Civil Rights asserted that state advertising was used as a tool to support progovernment media and undermine reporting critical of the government. In addition the government's decree enacting the 2009 media law reduced the number of broadcast licenses an individual or company can hold from 24 to 10 and barred cable providers from owning open-air television channels. The media law set a one-year deadline for private companies to comply with its regulations. Clarin Group, the country's largest media conglomerate, filed a lawsuit challenging the constitutionality of the one-year deadline, and on October 5 the Supreme Court upheld a lower court's temporary suspension of it.

The government also introduced a resolution to reorganize cable television channel grids as of October 1 and to regulate content in prime time television. Cable companies legally challenged the resolution, arguing the changes would negatively affect their businesses and favor progovernment news channels. Two court rulings suspended the government's resolution on the grounds that it would "harm freedom of expression."

On March 27, the car of Adela Gomez, a journalist who had investigated allegations of corruption in the local government in the province of Santa Cruz, was set on fire. Gomez declared she would leave her profession and accused government supporters of trying to silence her investigations with the attack.

On April 29, the Mothers of the Plaza de Mayo, an NGO with a public television program on the government-financed channel Canal 7, carried out mock trials known as "ethics trials" against seven journalists and five publishers who allegedly failed to report human rights violations during the former military dictatorship. The head of the Chamber of Deputies Press Freedom Committee, in collaboration with opposition lawmakers, submitted a report to the Special Rapporteur for Freedom of Expression of the Inter American Human Rights Commission denouncing the "ethics trials."

On August 24, in a televised national address President Fernandez de Kirchner accused private shareholders of Papel Prensa, the only active manufacturer of newsprint in the country, of having made an "illegal pact" to favor newspapers *Clarín*, *La Nación*, and *La Razon* with discretionary prices that hindered their competitors. *Clarín* had an approximately 50 percent stake in Papel Prensa, while *La Nación* and the government each owned 25 percent of the company. During the

address, President Fernandez de Kirchner declared that the production and distribution of newsprint paper should be a "matter of public interest" under governmental supervision. The Inter American Press Association and some opposition congressmen criticized the declaration as a violation of the national constitution.

The government formally requested the judiciary to investigate the directors and former directors of *Clarín*, *La Nación*, and *La Razon* for their involvement in alleged human rights abuses and irregularities in the sale of Papel Prensa in 1976-77. The government's petition asserted that Clarin Group chief executive officer, Hector Magonetto, and the group's main shareholder, Ernestina Herrera de Noble, as well as former owners of *La Nación* and *La Razon*, colluded with the 1976-83 military dictatorship and pressured Papel Prensa's owners, the Graiver family, to sell their shares in the company under duress from the 1976-83 military dictatorship. The government claimed that such alleged actions represented human rights violations against the Graivers and therefore invalidated the sale of the stock.

#### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that 30 percent of the population used the Internet.

Consumer protection advocates expressed concerns over a government resolution ordering one of the country's leading Internet providers to halt operations. On August 20, the Ministry of Planning ordered Fibertel, an Internet provider owned by the Clarin Group, to halt operations within 90 days because its license had expired. The government announced that Fibertel's approximately one million users should transfer to other providers and should be allowed to do so free of charge.

On September 24, the Court of Civil and Commercial Affairs in the city of La Plata ordered the government to refrain from implementing the Ministry of Planning's ordered shut-down of Fibertel on the grounds that it would violate rights established by the national constitution. In late December the Federal Appeals Court of La Plata overturned the decision and ruled in favor of the government, while in a separate case on the same issue a federal judge in the Cordoba District ruled in favor of Fibertel. Despite the conflicting rulings, Fibertel held the right to

appeal to the Supreme Court, barring the government from enforcing the shut-down and continued to operate at year's end.

#### 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

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt/](http://www.state.gov/g/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 (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

The law prohibits forced exile, and the government did not employ it.

#### Protection of Refugees

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

The National Committee for Refugees (CONARE), an interministerial body under the Ministry of the Interior, held regular sessions to study requests and make decisions. During the first nine months of the year, 562 persons sought asylum, and the National Committee for Refugees granted refugee status to 30 persons.

Colombians and Africans constituted the majority of the resettlements, with a lesser number from Asia.

In May the government passed legislation to implement the National Migration Law. It provides full recognition of migrants' rights.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in particular social group, or political opinion.

In late September CONARE granted refugee status to Galvarino Sergio Apablaza Guerra, a former Chilean guerrilla leader and spouse of an Argentinian government official for whom a Chilean extradition request was pending in connection with the 1991 killing of Chilean Senator Jaime Guzman Errazuriz and the kidnapping of Christian Edwards. Chilean President Sebastian Pinera criticized the decision, as did many local and international observers.

The law allows the government to provide temporary protection for humanitarian reasons, including family reunification, to individuals who may not qualify as refugees and provided it to approximately 12 persons during the year. Legislation implemented by executive decree in May provides for temporary protection for humanitarian reasons to victims of trafficking in persons and victims of natural catastrophes.

### 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

In October 2007 Cristina Fernandez de Kirchner of the Front for Victory Party won the presidency in elections described by media and various NGOs as free and fair. In legislative elections in 2009, 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.



Political parties generally operated without restriction.

Decrees provide that one-third of the members of both houses of congress must be women, a goal achieved through balanced election slates. There were 26 women in the 72-seat senate and 99 women in the 257-seat chamber of deputies. The president, two of the seven Supreme Court justices, and three cabinet ministers were women. Women constituted approximately 17 percent of top executive-branch positions at the federal level.

One indigenous person served in the chamber of deputies. There were no other 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 frequent press reports that executive, legislative, and judicial officials engaged in corrupt practices, suggesting a failure to implement the law effectively.

According to the World Bank's worldwide governance indicators, corruption was a serious problem. Weak institutions and an often ineffective and politicized judicial system made eliminating corruption in any systemic fashion difficult.

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.

According to *La Nacion* newspaper, federal security forces opened new investigations into police officials on a daily basis for suspected participation in "serious administrative infractions" during the year. These infractions included exploiting their position of authority for financial gain.

*La Nacion* reported that in 2008-09, authorities investigated 13,619 police for acts of corruption, violence, or irregularities in job performance in Buenos Aires Province, representing approximately 25 percent of the provincial police force and a 75 percent increase in investigations from 2006-07. Of those investigated, 872 were relieved of duty and 1,779 were reassigned to different positions. Between January and December, approximately 300 officers were relieved of duty for acts of corruption, violence, or irregularities in job performance.

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.

The ACO issued a report in August regarding the case of Ricardo Echegaray, the head of the Federal Agency for Tax Collection. The ACO alleged that Echegaray had used his authority as head of the National Office for Agricultural Commercial Oversight to grant subsidies to companies he owned. Opposition members in the chamber of deputies initiated a congressional investigation of Echegaray's actions, which continued at year's end.

During the year evidence of illegal campaign financing emerged from the investigation of an alleged money laundering scheme involving drug distribution companies, according to press reports. Judge Norberto Oyarbide charged President Fernandez de Kirchner's 2007 chief fundraiser and former supervisor of health services, Hector Capaccioli, for his involvement in the operation. On December 22, Capaccioli testified before Judge Oyarbide, denied accusations of wrongdoing, and at year's end awaited the judge's decision whether to continue the trial.

Ricardo Jaime, the former secretary of transportation, was indicted on April 21 on 15 charges of corruption that reportedly occurred during his tenure. He was also indicted on December 3 for allegedly receiving gifts and favors from transportation companies and for questions regarding his annual income. Jaime remained free and the investigation continued at year's end.

On April 20, the country's ambassador to Venezuela from 2002 to 2005, Eduardo Sados, testified to congress that, while at his post in Caracas, he observed that Argentine companies were allowed to export farm equipment to Venezuela only in exchange for making side payments to officials in the Argentine Planning Ministry. A federal case investigating these allegations continued at year's end.

Several judicial investigations into alleged fraud committed by prosecutors and judges filling vacancies at the federal level continued. Some applicants reportedly negotiated with members of the examining board to receive answers to questions

before taking the exam. On August 13, Alberto Pravia, a former member of an examining board, renounced his post as judge facing accusations of fraud during the examination process.

## 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 cooperated with international governmental organizations and permitted visits by UN representatives and other organizations during the year.

The government has a Human Rights Secretariat. Its main objective is to collaborate with the secretary of justice, security, and human rights to promote policies, plans, and programs for the protection of human rights. During the year it published leaflets and books on a range of human rights topics.

The government also has a Human Rights Ombudsman's Office. It focuses on the defense and protection of rights, guarantees, and interests granted by the national constitution. The Ombudsman's Office publishes an annual report based on the cases it receives throughout the year.

## 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, 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 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 victims often revictimized the individual.

The Rape Victims' Association reported more than 1,500 rape cases in Buenos Aires City and Buenos Aires Province during the year and clarified that more than 9,000 such cases were reported between 2003 and 2009. Eighty percent of those cases involved victims under the age of 18, representing an increase of 20 percent from 2009. The NGO noted that these figures did not include rapes reported directly to the municipal, provincial, and national governments. According to the Attorney General's Office, complaints were filed in three out of every 10 cases, and one in three of these cases was prosecuted.

The law prohibits domestic violence, including spousal abuse, although the law 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. However, lack of vigilance on the part of the police and the judicial system often led to a lack of protection for victims.

The law enacted in March 2009 to prevent and punish violence against women came into full effect on July 19, when the president signed the regulatory implementing decree. The National Council of Women (NCW) is the implementing body for standards pertaining to the law. Human rights organizations in the country as well as the UN Human Rights Committee criticized the low budget allocated to the NCW. The NCW had a 2010 budget of six million pesos (\$1,495,000), while just one program, a domestic violence telephone hotline in the province of Buenos Aires, required three million pesos (\$747,000) to operate.

Domestic violence against women was a problem. In October 2009 AI reported that a woman died every three days as a result of domestic violence. The civil society organization La Casa del Encuentro reported that 260 women died during the year as a result of domestic or gender-based violence, an increase of 12 percent from 2009 figures. Approximately one third of these cases occurred in Buenos Aires Province. Of these murders, 64 percent involved a husband, boyfriend, or ex-

boyfriend; in 27 cases, the woman had filed a complaint against the aggressor for domestic violence. In six cases, the woman had obtained a restraining order.

The Office of Domestic Violence provided protection and resources to victims of domestic violence 24 hours a day, seven days a week. During the year the office hired additional staff members to handle the approximately 600 cases of domestic violence it received each month. An estimated 80 percent of adult domestic violence cases received by the office involved violence against women. The office also carried out risk assessments necessary to obtain a restraining order, a service it completed for victims in three days as opposed to three or four months before the office opened. Between February 2009 and August 2010, 2,080 women received free legal assistance through the office. During the year ending September, 12,762 persons had cases filed against them for acts of domestic violence.

Family and civil courts in Buenos Aires Province, in compliance with a provincial Supreme Court order, created hotlines to receive complaints of domestic violence and assist victims after normal hours. Criminal courts worked with police stations, police offices for women's issues, and prosecutors' offices to enable victims to file domestic violence complaints 24 hours a day.

The Ministry of Justice continued to operate mobile units to assist victims of sexual and domestic violence in Buenos Aires City. A free hotline servicing the city 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 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. There was no information on the extent of the problem.

Couples and individuals generally had the right to decide 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 UN Population Fund reported in 2008 the maternal mortality rate at 70 deaths for every 100,000 live births. Women and men were given equal access to

diagnostic services and treatment for sexually transmitted infections. In May the National Health Ministry created a national free hotline to answer questions about where to find reproductive health care services and register complaints.

In August Human Rights Watch released a report documenting the obstacles women and girls faced in obtaining access to reproductive health care services such as contraception and voluntary sterilization procedures. The most common barriers to care were long delays in providing services, unnecessary referrals to other clinics, demands for spousal permission contrary to law, and, in some cases, denial of care. The report also identified a lack of oversight and accountability for carrying out existing laws regarding reproductive rights. The Population Reference Bureau recorded modern contraceptive use of 64 percent among married women.

Although women enjoyed equality under the law, including property rights, they encountered economic discrimination and held a disproportionately high number of lower-paying jobs. According to a study released by the Center for Women and Labor Studies in Argentina, women earned on average 24 percent less than men in similar positions. The report emphasized that, despite the country's overall economic growth, gender gaps persisted in the workplace.

The Office of Women was established by the Supreme Court in 2009 with the aim of training judges, secretaries, and clerks to deal with cases related to women. Its key function is to sensitize judicial actors to domestic violence, victims of abuse, trafficking in persons, and other women's issues. The office also seeks to ensure equal access for women to positions in the court system. In September the office carried out its first training workshop for 120 provincial Supreme Court actors.

The National Council of Women carried out programs to promote equal social, political, and economic opportunities for women. The council worked with the special representative for international women's issues, the Ministry of Labor, and union and business organizations to form the Tripartite Committee on Equal Opportunity for Men and Women in the Workplace, which sought to foster equal treatment and opportunities for men and women in the job market.

### Children

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. A February 2009 decree permits the Ministry of Interior to issue birth certificates to children under age 12 whose births have not been previously registered.

Child abuse was not uncommon; for example, a University of Buenos Aires study released in April found that 9 percent of university students in Buenos Aires claimed to have suffered some form of sexual abuse before the age of 19. The survey investigated child abuse among a sample of 2,750 persons.

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.

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 to three years of 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. On November 25, federal police arrested a 31-year-old man accused of filming and distributing child pornography through an international network. According to press reports, during a search of the man's house, police found approximately 90 hours of pornographic footage and 26,000 photos of children ages six to nine years old. The man remained in pretrial detention at year's end.

Several cases of child sexual abuse were reported during the year. In May the Oral Court of San Martin sentenced nine persons to prison sentences ranging from 25 to 42 years for sexual abuse of a 16-year-old. In July a court sentenced a man to seven and a half years in prison for sexual abuse of an 11-year-old girl.

On September 14, a criminal appeals court in the province of Buenos Aires confirmed the sentence of priest Julio Cesar Grassi to 15 years in prison for two aggravated charges of sexual abuse of minors. On September 21, the Oral Court of

Moron refused the request of prosecutors that Grassi be detained, claiming that the possibility of appeal remained. Grassi remained free at year's end.

According to credible local press reports, dozens of child victims of violence from poor families were lodged in juvenile detention facilities under judicial protection orders. City government observers continued to be barred from visiting the centers.

The National Council for Children, Adolescents, and the Family continued to conduct public awareness campaigns and operated a national hotline, which children used to call for advice, make complaints, and report instances of abuse or other rights violations.

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

### Anti-Semitism

Sporadic acts of discrimination and vandalism continued against religious minorities, particularly the Jewish community, consisting of 250,000 to 300,000 members. The Delegation of Jewish Argentine Associations (DAIA) received 503 complaints of anti-Semitism during 2009, representing an increase of 60 percent over 2008. DAIA indicated that the spike in anti-Semitic acts was related to conflicts in the Gaza Strip in early 2009.

The most commonly reported incidents were anti-Semitic graffiti, verbal slurs, and the desecration of Jewish cemeteries, including 40 graves at the Jewish cemetery in Misiones in May. A majority of the complaints were filed in Buenos Aires City. DAIA claimed that cases in the provinces were likely underreported.

In February a judge sentenced Juan Carlos Beica, the leader of a minority left-wing party, to a six-month suspended sentence for his role in organizing the January 2009 anti-Israeli demonstrations in Buenos Aires in protest of Israeli military operations in Gaza. The protests, which took place outside the Israeli embassy, AMIA's headquarters, and a hotel owned by a Jewish Argentine businessman and treasurer of the World Jewish Congress, exhibited anti-Semitic imagery. On July 21, a Buenos Aires Appeals Court absolved Beica of the charges and revoked the six-month sentence.



In November an Appeals Court cleared Revolutionary Action Front leader Roberto Martino of charges for an anti-Semitic attack outside the Israeli embassy in 2009. Despite the ruling, Martino remained in pretrial detention at year's end on separate charges, which provoked some left-wing groups supporting Martino to block main transit routes in downtown Buenos Aires to protest his detention.

The investigation into the 1994 bombing of the AMIA building 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 March AMIA case prosecutor Alberto Nisman met with Iranian officials at Interpol's headquarters. The Iranians rejected a proposal for a third state to provide for a fair trial. In September President Fernandez de Kirchner advocated the third-state proposal during her address to the UN General Assembly, but the government of Iran again rejected the proposal in a September 28 letter to the UN.

In March a federal appeals court confirmed the 2009 decision to prosecute former president Carlos Menem, former secretary of intelligence Hugo Anzorreguy, and former federal judge Juan Jose Galeano for their alleged role in the bombing "cover-up." In August a federal judge publicly urged prosecutor Nisman to speed up the investigation regarding Carlos Telledin to bring the case to oral trial. The investigation 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. In October the Ministry of Education and the Ministry of Tourism cosponsored an international colloquium entitled "Two Argentine Centuries of Christian-Judeo-Islamic Multiculturalism." The event included documentaries, exhibitions, and religious community speakers.

### Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/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. While the government does not restrict the right of persons with disabilities to vote or participate in civic affairs, access to a voting location is often not possible for those with disabilities, and the required accommodations are often not met. There are accounts of persons with mental health conditions being denied the right to vote by election officials.

On June 1, the Supreme Court declared unconstitutional an article of a law putting certain limits on the right to travel on buses free of charge between home and places of work, assistance, education, or other social integration. The ruling effectively widened access to public transportation for persons with disabilities.

On November 3, congress unanimously passed a law requiring all government entities to respect international Web site design standards, facilitating equal access to Web information for persons with disabilities. The law gives entities two years to comply with design standards.

On November 25, congress passed the Mental Health Act, which broadens the number of treatment alternatives for persons with mental health conditions. It prohibits the creation of new psychiatric asylums, promotes medical care at general hospitals, and incorporates issues related to addiction into the mental health field. A 2007 CELS report indicated that 25,000 persons were confined to psychiatric asylums and that 80 percent of those persons were confined for more than one year.

An estimated 82 percent of persons with disabilities lacked employment. Due to lengthy procedures for obtaining a certificate of disability, a key document to access services including rehabilitation, only 15 percent of unemployed persons with disabilities received a certificate of disability.

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 took a number of actions to improve respect for the rights of persons with disabilities. Santa Fe Province passed a law that mandates provincial tax forms in Braille be provided upon request to persons with visual disabilities.

Chaco Province established a free hotline offering persons with disabilities information regarding their rights and benefits and general assistance.

The government responded to civil society requests to improve respect for the rights of persons with disabilities in education. In Neuquen approximately 1,000 students received approval from the Provincial Education Council to leave a special education school and enter the general public school system upon request of their parents. The National University of Cordoba, in response to requests from blind students, digitized 20,000 pages of text in five different fields of study to make them accessible to the visually impaired.

The government's Secretariat of University Policies signed an agreement in June at the Ministry of Education to finance renovations to make university buildings accessible to persons with disabilities seeking to ensure that the buildings and grounds of all national universities are safe and accessible for all users.

#### National/Racial/Ethnic Minorities

Although discrimination against national, racial, and ethnic minorities was generally not a problem, in June the DAIA published a book describing instances of discrimination faced by 16 minorities, including Afro-Argentines, Koreans, Chinese, and other immigrants in 2008-09. The book outlined historical prejudices faced by the various groups; examples of discrimination against them in employment, education, and housing; and modern-day stereotypes, often based on physical appearance.

In October the government carried out the first census to contain a question recognizing the Afro-Argentine population. INADI underlined the importance of using the data to recognize the importance of the population's cultural and historical contribution to social diversity.

#### 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. The lack of trained teachers hampered government efforts to offer bilingual education opportunities to indigenous people.

Deforestation in Salta Province continued in violation of a 2008 Supreme Court ruling that ordered the Salta governor to suspend clearing of forested areas pending completion of a study on the environmental effect of deforestation on indigenous persons living in the area. On April 22, representatives of indigenous groups met with the chief justice of the Supreme Court to advocate for the enforcement of the 2008 ruling. The representatives also highlighted the lack of national and international laws that protect the land rights of indigenous communities against encroachment by soy farming, logging companies, and other business interests. On September 15, the Supreme Court rejected a request from the indigenous communities to investigate and verify claims of deforestation in Salta using satellite images of the province.

In July the NGO Human Rights Watch released a report, *Indigenous Peoples in Argentina*, denouncing the "institutionalized discrimination" against the Mapuche people in Neuquen Province. It described repression of the aboriginal community, the criminalization of indigenous protests, and the failure of private companies and the provincial government to comply with laws protecting indigenous rights. The report cited specifically the provincial government's expropriation of Mapuche lands.

The two former policemen and one landowner charged with an October 2009 killing of an indigenous person were released from pretrial detention, although charges remained pending.

The Lhaka Honhat indigenous association continued to advocate for an IACHR decision on the petition regarding the national government's failure to implement a titling policy that would return their traditional land.

An April report by AI investigating the situation of the indigenous population of Formosa Province concluded that the indigenous inhabitants had experienced a "systematic violation of human rights" by a state apparatus that "marginalizes and coerces indigenous peoples." The report alleged violation of constitutional rights and international laws that protect indigenous peoples, as well as institutional abuse and discrimination in violation of Law 26.160, which prohibits forced evictions. AI cited violations of community property rights when the provincial government appropriated land and dug deep canals, which had a negative effect on resources available to the indigenous population.

On November 23, police clashed with protestors from the indigenous Toba group of Formosa, leaving dead an indigenous man and a police officer as well as numerous serious injuries according to press reports. The violence came after protestors barricaded a provincial road for four months to demand the return of claimed ancestral lands, which the provincial government sought to use for a proposed university campus. The Ombudsman's Office of the Nation, national legislators, indigenous leaders, and AI expressed concern for the role of the provincial government in the clash.

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

Three provinces still have laws that either criminalize transgender behavior or single out homosexual activity when referring to prostitution; however, INADI reported that these laws were rarely enforced. During the year nine provinces enacted laws to repeal articles criminalizing transgender behavior in prostitution.

During the year INADI received 96 complaints of discrimination on the basis of sexual orientation or gender identity.

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

Numerous gay pride marches occurred throughout the country and received government authorization. Police provided protection to participants.

On July 15, Congress passed a law to legalize same-sex marriages. The legislation removes all gender specification from existing marriage laws; permits gay and

lesbian couples to marry; grants spouses immigration rights, medical benefits, pensions, and social security; and defines rights of inheritance for such couples by marriage law. Although the right to adopt children jointly is not explicitly granted in the bill, the removal of gender from the framework of marriage means that gay and lesbian parents receive the same treatment as heterosexual parents.

Following the passage of the law, approximately 835 same-sex couples were married as of late December, according to figures provided by the Federation of Gays, Lesbians, Transvestites, and Bisexuals.

In December 2009 the First Criminal Court of Salta sentenced Sergio Alfredo Nunez and Silvio Elias Soria to life imprisonment for their roles in the 2006 killing of transgender activist Pelusa Liendo.

There was no official or overt societal discrimination based on sexual orientation in employment, housing, statelessness, or access to education or healthcare.

#### 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 HIV/AIDS.

There was an increase in reports of violence against the elderly in Buenos Aires City. More than 800 complaints of violence against the elderly were recorded during the first four months of the year.

#### Section 7 Worker Rights

##### a. The Right of Association

The law provides all workers, with the exception of military and law enforcement personnel, the right to form and join "free and democratic labor unions, recognized by inscription in a special register," and workers exercised this right. An estimated 42 percent of the workforce was organized. Union participation varied among sectors; affiliation was as high as 99 percent of the Electrical Workers Union and 70 percent in the Food Workers Union.

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 "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. The International Labor Organization (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 conflicts with ILO Convention 87 and prevents 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 legislature had not modified labor legislation and the executive branch had not granted such recognition to the CTA at year's end. The IACHR continued to review the CTA's 2004 petition at year's end. In April the UN Human Rights Committee expressed concern with the government's noncompliance with ILO Convention 87 and suggested it take measures to grant the CTA full legal standing.

Unions have the right to strike, and workers exercised this right in practice. However, 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" are rendered. Although "minimum services" have been defined in collective bargaining agreements in some cases, the law does not define "minimum services." 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. According to the Ministry of Labor, there were 497 labor conflicts that led to strikes in the first half of the year; 756,260 workers participated in the strikes.

#### b. The Right to Organize and Bargain Collectively

The law provides trade unions with official status the right to negotiate collective bargaining agreements, including recourse to conciliation and arbitration; this was effectively enforced in practice. The most representative union bargains on behalf

of all workers and collective agreements cover both union members and nonmembers in the sector. Unions without official trade union status recognition by the government (that is, those that are not the "most representative") in their sector, have made membership gains within the workplace. Some leaders of unions with official status reported that membership gains in unofficial unions impaired their ability to negotiate. The law requires the Ministry of Labor, Employment, and Social Security to ratify collective bargaining agreements, which covered approximately 75 percent of the formally employed workforce. There were no known cases during the year of the government refusing to approve a collective agreement.

There are no special laws or exemptions from regular labor laws in the three functioning export processing zones.

c. Prohibition of Forced or Compulsory Labor

While the law prohibits forced or compulsory labor, there were reports that such practices occurred.

Through December the International Organization for Migration assisted 29 victims and seven minor dependents that had been trafficked from Bolivia, Peru, Colombia, Brazil, and Argentina, nine of whom were exploited in sweatshops. Victims of forced labor also included eight persons working in fruit and vegetable stores, three in domestic services, two in street vending, and seven in other activities. Additionally, on December 30, the government discovered 130 forced labor victims working in San Pedro for the Nidera agricultural company. The victims were predominantly from the provinces of Santiago del Estero and Tucuman in Argentina and included 30 children.

In April police raided three textile workshops in La Matanza, where they found more than 80 Bolivian citizens working in an overcrowded environment. A police report suggested that the workers were underfed. A federal court was investigating the case for violations for the country's antihuman trafficking law at year's end.

The 2008 case of 30 Bolivians working in exploitative conditions at a poultry farm in Buenos Aires Province had not gone to trial at year's end. Press reports indicated the company had not paid the fine by year's end. The Ministry of Labor was reviewing additional forced labor complaints, including two deaths, lodged against the company at year's end.



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

d. Prohibition of Child Labor and Minimum Age for Employment

While the law protects children from exploitation in the workplace, child labor persisted. 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 old and 20 percent of children over the age of 14.

In May the minimum age for employment was raised to 16 years old. In rare cases, the Ministry of Education may authorize a younger child to work as part of a family unit. Children between the ages of 16 and 18 years old 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. Legal penalties for employing underage workers ranged from 1,000 to 5,000 pesos (\$269 to \$1,344) for each child employed. Provincial governments and the city government of Buenos Aires are responsible for labor law enforcement.

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.

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, including workshops with tobacco producers to encourage corporate social responsibility on child labor issues. CONAETI also trained members of the Network of Businesses against Child Labor and developed "Harvest Gardens" which provided seven daycare centers for children in tobacco-producing zones.

In 2009 the government extended its Heads of Household initiative, a cash transfer and employment training program, to workers in the informal economy. The program targets vulnerable and unemployed populations with at least one child under the age of 18 by improving employability, reducing dependence on income from children's work, and providing scholarships. The government provided scholarships to 13,684 children and incorporated 653 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 implemented awareness raising activities such as a national campaign against forced child labor as part of the ILO's World Day Against Child Labor; identified and strengthened direct action programs to prevent and combat child labor; and conducted trainings for health professionals on child labor.

e. Acceptable Conditions of Work

The government increased the monthly minimum wage in September to 1,740 pesos (\$435). This exceeded the amount of 1,252 (\$315) a month that the National Census and Statistics Institute (INDEC) estimated was needed by a family of four to maintain a "decent" standard of living. 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. In July *La Nacion* reported that, according to INDEC, wages of workers in the informal sector grew at a faster rate than workers in the formal sector. The Ministry of Labor, which is responsible for enforcing legislation related to working conditions, continued inspections to get companies to register their informal workers. According to a 2007 ILO study, 60 percent of employed citizens ages 15 to 24 were engaged in informal labor.

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. However, laws governing acceptable conditions of work were not enforced universally, particularly for workers in the informal sector.

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 (ART) entity or provide

its own insurance to employees to meet specified requirements set forth by the national insurance regulator.

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. 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.