

Argentina

Serious problems continue to beset Argentina's criminal justice system. These include police abuses, prison overcrowding, torture of detainees, and degrading conditions of detention in police lockups. Under strong public pressure to deal more effectively with violent urban crime, the government of President Néstor Kirchner passed laws in 2003 increasing the use of pretrial detention and lengthening jail sentences for violent offenders.

On a positive note, the Kirchner government continues to press for accountability for human rights violations committed during Argentina's period of military rule (1976-1983). At this writing, roughly one hundred former military and police officers had been detained, and several key trials were underway.

Police Abuses

Police frequently fail to observe international norms concerning the use of lethal force and, as a result, the death rate in confrontations with suspects is high. Extrajudicial executions and torture by police are also serious problems, although the true number of extrajudicial executions is hard to gauge. According to official figures, twenty-five people, including four minors, were killed in 2003 during armed clashes involving federal police officers in the city of Buenos Aires. In 2004, victims included fifteen-year-old Héctor David Herrera, who was killed on April 16, reportedly shot at close range by members of the federal police.

The March 2004 kidnapping and murder of twenty-three-year-old Axel Blumberg led his father, Juan Carlos Blumberg, to initiate a high-profile public campaign against impunity for violent crimes. In response to demonstrations by thousands of people, the government rushed through laws that lengthened sentences for armed robbery and for arms offenses. The new laws increase the maximum length of cumulative sentences for violent crimes to fifty years, drastically restricts the possibility of provisional release for the accused, and bars convicts from early release. In addition, a bill approved by the Buenos Aires city legislature in September modified the city's misdemeanor code by increasing penalties for many misdemeanors to a maximum of sixty days of detention, a period longer than that contemplated in the Criminal Code for some crimes. The Center for Legal and Social Studies (Centro de Estudios Legales y Sociales, CELS), a nongovernmental human rights group, criticized the Buenos Aires law as "manifestly repressive" and in breach of the Argentine Constitution and international human rights treaties.

Detention Conditions

The Argentine prison system is seriously overstretched, and torture and mistreatment of detainees is widespread. In October 2004, the Committee against Torture of the Provincial Commission of Memory (of Buenos Aires province), after analyzing 3,500 criminal complaints against officials of the Buenos Aires prison system, published dramatic findings indicating that abuse is systemic.

Due to prison overcrowding, 5,441 people were being held awaiting trial in police lockups in the province of Buenos Aires as of July 2004. According to a report by CELS, there were up to ten detainees each crammed into cells measuring 1.8 by 2.5 meters—with no beds, ventilation or natural light—requiring detainees to take turns sleeping on the floor. At this writing, a collective *habeas corpus* petition lodged by CELS in 2001 on behalf of detainees held in police lockups was still pending before the Supreme Court. In August 2004, Human Rights Watch, the International Commission of Jurists, and the World Organization against Torture co-presented an *amicus curiae* brief to the court in support of the position taken by CELS.

The detention and mistreatment of juveniles in police stations in the province of Buenos Aires continues to be a serious problem. In a report published in December 2003, CELS revealed that many children are held illegally with adults on police premises but do not appear in official statistics. In October 2004, the press reported that three hundred juveniles were being held illegally in police lockups in the province.

Reproductive Rights

Argentina has taken important steps toward guaranteeing women's right to reproductive health, most notably through the implementation of a national program on "reproductive health and responsible procreation" in 2002. However, women continue to face multiple obstacles in their access to contraception and to information on reproductive health care. Some of these obstacles constitute violations of international human rights standards: denial of access to voluntary tubal ligation; pervasive domestic violence without effective recourse; deliberate dissemination of misinformation or withholding of information on contraceptive methods in the public health care system; and severely limited access to abortion, even where not punishable by law. These violations are exacerbated for low income women by grossly inadequate services in some areas and a seriously overburdened public health care system.

Accountability for Past Abuses

Following the congressional annulment in August 2003 of the "full stop" and "due obedience" laws—which had obstructed prosecutions of those responsible for human rights abuses committed during military rule—human rights trials continue to advance. The Minister of Defense, José Pampuro, stated in June 2004 that since the current president entered office, ninety-seven former military officers had been detained for past human rights abuses. Among the most high-profile prosecutions are those involving fifteen former agents of the Navy Mechanics School (ESMA), including Alfredo Astiz, and thirty former officers of the First Army Corps. In September 2004, Judge Jorge Urso indicted nineteen former military officials, including ex-junta leader Gen. Jorge Videla, for involvement in Operation Condor, a

collaborative venture of the military regimes of the Southern Cone countries in the 1970s to arrest, torture, and “disappear” dissidents located in each others’ territory.

In March 2004, a federal court in La Plata sentenced Miguel Etchecolatz and Jorge Berges, a former police commissioner and doctor, respectively, to seven years of imprisonment for concealing the identity of the baby daughter of Aída Sanz, who was abducted by the security forces in 1977 when nine months pregnant and “disappeared.” Berges personally had handed the baby over to a civilian couple who raised her under a false name. It was the first time that a court in La Plata has convicted anyone of human rights violations, although up to two thousand people are said to have “disappeared” there during military rule.

A final judicial decision on the constitutionality of the annulment of the “full stop” and “due obedience” laws was still pending at this writing. In October 2003, the Supreme Court referred the case to the Criminal Cassation Panel. The same panel also was due to rule on whether the reopening of the ESMA case violated Argentina’s prohibition on double jeopardy.

In August 2004, the Supreme Court rejected an appeal by a former Chilean agent who had argued that the life sentence he received for the 1974 assassination of Chilean army commander Gen. Carlos Prats should be thrown out because the statute of limitations had elapsed. In a landmark decision, the court ruled that, as a crime against humanity, the murder was not subject to a statute of limitations.

In a symbolic event commemorating the twenty-eighth anniversary of the March 24, 1976, military coup, President Kirchner ordered portraits of two leaders of the military juntas that ruled the country until 1983 removed from the walls of the Military College. Kirchner also visited the ESMA and signed an agreement with the city government to turn the building into a “museum of memory.”

Freedom of Expression

Although Argentina has a free and vibrant press, progress on bills to extend rights of free expression and access to information remain disappointingly slow. Press freedom groups have lobbied Congress to adopt legislation to make defamation of public officials punishable only by civil damages, as opposed to criminal sanctions. A bill to this effect introduced into the Senate in October 2002 is still bogged down in the legislative process. Also held up in the Senate is a bill, already approved in the lower house in May 2003, that would give Argentine citizens the right to information held by public bodies.

Journalists in some Argentine provinces face threats and physical attacks for their reporting. The perpetrators of such crimes are rarely prosecuted.

Key International Actors

Recently declassified U.S. government documents reveal the strong support given by former Secretary of State Henry Kissinger to the Argentine military junta in 1976, at a time when the junta was responsible

for massive human rights abuses. According to a record of a conversation between Kissinger and Argentina's then-Foreign Minister, Adm. César Augusto Guzzetti, Kissinger told Guzzetti: "[I]f there are things that have to be done, you should do them quickly. But you should get back quickly to normal procedures." The documents show how Kissinger undermined efforts by the U.S. Congress and the U.S. ambassador in Argentina to press the Argentine military to stop the abuses.

Trials continue in Spain of ESMA agents Adolfo Scilingo and Ricardo Miguel Cavallo, the latter of whom was extradited from Mexico in June 2003. Courts in other countries, such as Germany, continue investigating crimes committed during the "dirty war" against their nationals. In November 2003, a Nuremberg court issued international warrants for the arrest of former president Jorge Rafael Videla and two other former military officials for the murder of two German students in 1976 and 1977. All three suspects were already under house arrest in Argentina on other human rights charges.