

Argentina

Argentina faces long-standing human rights problems that include police abuse, poor prison conditions, endemic violence against women, difficulty accessing reproductive services, and obstacles keeping indigenous people from enjoying the rights afforded to them by Argentine and international law.

Impunity for the 1994 AMIA bombing, vaguely defined criminal provisions that undermine free speech, and delays in appointing permanent judges are serious concerns.

In 2016, Argentina adopted federal regulations to ensure access to official information and to prevent favoritism in government purchase of media advertisements, an important source of media revenue. Argentina continues to make significant progress protecting lesbian, gay, bisexual, and transgender (LGBT) rights and prosecuting officials for abuses committed during the country's "Dirty War" (1976-1983), although trials have been delayed.

Confronting Past Abuses

As of September 2016, 2,541 people had been charged, 723 convicted, and 76 acquitted of crimes allegedly committed by Argentina's military junta during the country's "Dirty War," according to the Attorney General's Office. Prosecutions were made possible by a series of actions taken in the early 2000s by Congress, the Supreme Court, and federal judges annulling amnesty laws and striking down pardons of former officials implicated in the crimes. As of November 2016, 121 children illegally taken from their parents during the war had been located.

In May, a federal court convicted 14 former military and intelligence chiefs from Argentina and one from Uruguay of crimes against humanity committed as part of the Condor Plan, a joint initiative targeting political opponents by the dictatorships in Argentina, Bolivia, Brazil, Chile, Paraguay, and Uruguay. In August, a federal court sentenced 28 people to life

without parole for crimes that included torture, homicide, and the illegal abduction of babies in 1974—the first conviction for abuses committed before the 1976 coup.

Given the large number of victims, suspects, and cases, prosecutors and judges face challenges bringing those responsible to justice while respecting their due process rights. In September, the Attorney General’s Office reported that 489 pretrial detainees and convicted prisoners were under house arrest, a right provided for by Argentine law to people over 70 years old. In August, the government said it would not appeal judicial rulings granting house arrest to these detainees and convicted prisoners.

The fate of Jorge Julio López, a torture victim who disappeared in 2006—a day before he was due to attend the trial of one of his torturers—remains unknown.

Freedom of Expression

In January 2016, police detained Milagro Sala, a prominent social leader in Jujuy province, for participating in peaceful street protests. Sala and other demonstrators had gathered in the provincial capital to protest a decree issued by the governor that purported to regulate organizations like Sala’s, which implement government-funded housing and other welfare programs.

Sala was charged with instigating protesters to commit crimes and also with sedition, an offense that Argentine law broadly defines as “publicly mobilizing to prevent implementation of national or provincial laws or resolutions of national or public officials.” As of November, Sala was in prison awaiting trial on several charges, including sedition.

Upon taking office, President Mauricio Macri adopted a temporary set of decrees to regulate media, and created a new agency that reports to the Communications Ministry to implement the new rules. In July, the government said it was drafting a communications law that it claimed would respect free speech. As of November, the law was still being drafted but the new, supposedly temporary agency that lacks structural independence from the executive had already issued rulings regulating media.

In August, the Macri administration issued a resolution setting forth transparent criteria for government purchase of media advertisements, and in September, Congress passed a national law ensuring public access to information held by government bodies. Some provinces and municipalities still lack such laws, however, undermining free speech.

Police Abuse and Prison Conditions

Overcrowding, ill-treatment by guards, inadequate facilities, and inmate violence continue to be serious issues in Argentina's prisons. The National Penitentiary Office, created by Congress in 2003 to supervise federal prisons and protect the rights of detainees, reported eight violent deaths in federal prisons between January and September 2016. The office also documented 775 cases of torture or ill-treatment in federal prisons in 2015, and 446 cases between January and September 2016.

A report published in September by the Provincial Commission for Memory—an autonomous public body created by the legislature of Buenos Aires province—found that in 2015, an average of three detainees died per week in Buenos Aires province prisons, most of them due to preventable illnesses. The report highlights that more than half of detainees in prisons and police stations in the province were being held in pretrial detention.

Police abuse remains a serious problem. Security forces occasionally employ excessive force against protesters, despite a 2011 commitment by authorities in at least 19 of Argentina's 23 provinces to ensure that force is used proportionately.

In May, under a justice reform package called “Justice 2020,” the Macri administration said it would create a national mechanism to prevent torture, in an effort to fulfill its obligations under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

Judicial Independence

The delayed appointment of permanent judges by the Council of the Judiciary has led to temporary appointments of judges who lack security of tenure, which, the Supreme Court ruled in 2015, undermines judicial independence. As of November 2016, 254 of 979 lower-court judgeships remained vacant.

In December 2015, President Macri issued an executive decree to appoint two Supreme Court justices, without following the process established in a 2003 presidential decree that includes civil-society participation in nominating judges and Senate approval. After strong criticism by the opposition, lawyers, and nongovernment organizations (NGOs), the government implemented the process. In June 2016, after taking into consideration inputs from the public, NGOs, and academic and bar associations, the Senate approved President Macri's nominations and the justices took office in August.

Impunity for the AMIA Bombing

Twenty-two years after the 1994 bombing of the Argentine Israelite Mutual Association (AMIA) in Buenos Aires that killed 85 people and injured more than 300, no one has been convicted of the crime.

The investigation stalled when Iran, suspected by the Argentine judiciary of ordering the attack, refused to allow Argentine investigators to interview Iranian suspects in Argentina. In 2013, Argentina and Iran signed a memorandum of understanding (MOU) that allowed an international commission of jurists to review evidence and question Iranian suspects—but only in Tehran, which would likely have rendered the interviews inadmissible in an Argentine court. A federal court declared the MOU unconstitutional, a ruling that the Macri administration said it would not appeal. The government said further that it would ask Interpol to re-issue red notices—a form of international arrest warrant—to detain several Iranians implicated in the attack, and that it would present draft legislation to try the Iranians in absentia.

In January 2015—days after he filed a criminal complaint accusing then-President Cristina Fernández and her foreign affairs minister of conspiring with Iran to undermine the investigation—Alberto Nisman, the prosecutor in charge of investigating the bombing, was found dead in his home with a single gunshot wound to the head and a pistol beside him. In 2015, a federal court dismissed Nisman's complaint but an appeal by a federal prosecutor to reopen the investigation was pending at time of writing. As of November 2016, the courts had not determined if Nisman was a victim of suicide or murder.

In 2015, a court began the trial of several officials—including former President Carlos Menem, his head of intelligence, and a judge—for their alleged interference with the initial investigation into the bombing. The trial continued at time of writing.

Indigenous Rights

Indigenous people in Argentina face obstacles in accessing justice, land, education, health care, and basic services. Argentina has failed to effectively implement existing laws to protect indigenous peoples' right to free, prior, and informed consent when the government adopts decisions that may affect their rights—a right provided for in international law.

In May, President Macri created by decree the Advisory and Participatory Council of Indigenous People of Argentina to protect and promote indigenous rights. One of the council's tasks is to ensure that a survey of indigenous lands, required by a 2006 law, is carried out. The survey is being conducted, but slowly.

Women's Rights

Abortion is illegal in Argentina, except in cases of rape or when the life of the woman is at risk. But even in such cases, women and girls are sometimes subject to criminal prosecution for seeking abortions, and have trouble accessing such reproductive services as contraception and voluntary sterilization.

In April, a 27-year-old woman from Tucumán province was sentenced to eight years in prison for aggravated homicide after suffering a miscarriage. In August, the Supreme Court of Tucumán ordered her release, but at time of writing it had yet to adopt a final decision regarding her conviction.

Despite a 2009 law setting forth comprehensive measures to prevent and punish violence against women, the unpunished killing of women remains a serious concern. The National Registry of Femicides, administered by the Supreme Court, reported 235 femicides, but only seven convictions, in 2015.

Sexual Orientation and Gender Identity

In 2010, Argentina became the first Latin American country to legalize same-sex marriage. The Civil Marriage Law allows same-sex couples to enter into civil marriages and affords them the legal protections of marriage enjoyed by opposite-sex couples, including adoption rights and pension benefits. Since 2010, nearly 15,000 same-sex couples have married nationwide.

In 2012, the landmark Gender Identity Law established the right of individuals over the age of 18 to choose their gender identity, undergo gender reassignment, and revise official documents without any prior judicial or medical approval.

Key International Actors and Foreign Policy

In July, the United Nations Human Rights Committee called on Argentina to decriminalize abortion and ensure that the new Communications Law does not generate media concentration. It also urged Argentina to appoint an ombudsman to monitor human rights—a position that has been vacant since 2009.

In October, the UN Working Group on Arbitrary Detention (UNWAD) ruled that Milagro Sala's detention was arbitrary and urged the Argentine government to immediately release her. In November, the Argentine government invited the UNWAD and the Inter-American Commission on Human Rights to visit the country to assess Sala's case.

In August, the US government declassified over 1,000 documents—including some from the FBI and Pentagon—containing information about Argentina's Dirty War, an important contribution to the country's efforts to bring those responsible for abuses to justice.

At a December 2015 meeting of the regional trade bloc Mercosur, and several times afterwards, President Macri openly criticized Venezuela's poor human rights record and called for the release of its political prisoners—a much clearer stance than was taken by Foreign Minister Susanna Malcorra before the Organization of American States in May 2015.

In 2016, Argentina announced that it would host a conference on the global Safe Schools Declaration in March 2017.