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country summary

## Argentina

Argentina continues to make significant progress in prosecuting military and police personnel for “disappearances,” killings, and torture during the country’s “dirty war” in the 1980s, although trials have been subject to delays.

Argentina passed legislation to regulate broadcast and print media in 2010, and is considering bills to promote access to information. The impact of the new media legislation on freedom of expression in Argentina will depend on how it is implemented by a new regulatory body established by the law. A landmark law passed in July legalized same-sex marriage.

Significant ongoing rights concerns include deplorable prison conditions and arbitrary restrictions on women’s reproductive rights.

### Confronting Past Abuses

Several important human rights cases from Argentina’s last military dictatorship (1976-1983) were reopened in 2003 after Congress annulled the 1986 “Full Stop” law, which had forced a halt to the prosecution of all such cases, and the 1987 “Due Obedience” law, which granted automatic immunity in such cases to all members of the military except those in positions of command. Starting in 2005 federal judges struck down pardons issued by then-president Carlos Menem in 1989-90 of former officials convicted or facing trial for human rights violations.

As of October 2010, 748 people were facing charges for these crimes and 81 had been convicted. In December 2009, after long delays, the trial began of 19 officers who worked in the infamous Navy Mechanics School (ESMA) for their alleged responsibility for the torture and enforced disappearance of 87 victims. In April 2010 former military president Gen. Reynaldo Bignone received a 25 year prison sentence for the kidnapping and torture of 56 people at the Campo de Mayo military camp on the outskirts of Buenos Aires.

Delays in judicial proceedings, however, continue to undermine accountability. According to the Center for Legal and Social Studies (CELS), by October 2010, 253 people implicated in crimes committed during the dictatorship had died before being brought to justice. One of

the main causes of delay was the failure to allocate sufficient courtrooms in Buenos Aires. There have also been long delays at the appellate level: as of March 2010 the Supreme Court had confirmed final sentences in only two of the cases reactivated after the annulment of the amnesty laws.

The security of witnesses in human rights trials continues to be a serious concern. Jorge Julio López, age 78, a former torture victim who “disappeared” from his home in September 2006, the day before he was due to attend one of the final days of a trial, remains missing.

In September the government filed a criminal complaint charging the owner and president of the newspaper *Clarín*, the director of *La Nación*, and the former owners of *La Razon* with crimes against humanity. The complaint alleged that the three newspapers had illegally appropriated the newsprint company Papel Prensa in 1976, during the military dictatorship. In 1977 government agents kidnapped and tortured five members of the Graiver family, which owned majority shares in Papel Prensa. The government alleges that representatives of the newspapers, in concert with the military government, used threats to pressure the members of the family into signing over their shares. *Clarín* and *La Nación* insisted that the acquisition of the shares was legal and denied any link between their purchase and the detention of the Graiver family. They accused the government of attacking the papers because of their criticism of President Cristina Fernández de Kirchner.

## **Freedom of Expression and Information**

A bill to regulate the broadcast media, approved by Congress in October 2009, aims to promote diversity of views by limiting the ability of corporations to own large portions of the radio frequency spectrum. The new law contains vague definitions of what “faults” could lead to sanctions such as the revocation of broadcasting licenses. Responsibility for interpreting and implementing the law is assigned to a new regulatory body. Courts have issued injunctions suspending the application of some of its articles while they review the law.

In October 2010 commissions of the Chamber of Deputies approved draft legislation presented by President Fernández to regulate the company that produces and distributes paper for newsprint in Argentina. The law would also declare that the supply of newsprint is a matter of public interest, granting oversight powers to an implementing body that reports to the executive.

In 2010 both chambers of Congress debated bills to ensure public access to information held by state bodies. In September the Senate approved a bill presented by an opposition

senator to ensure public access to information held by all three branches of government as well as other public institutions such as universities, state-funded enterprises, and the Central Bank. The bill would establish a body to apply the regulations, with members appointed by each branch of government, the ombudsman, the comptroller general, and the National Archive. By October Congress had not yet agreed on a final text.

The absence of transparent criteria for allocating government advertising contracts, at the federal level and in some provinces, creates a risk of political discrimination against media outlets that criticize government officials. In a case against the provincial government of Neuquen, the Supreme Court ruled in September 2007 that, while media companies have no right to government advertising revenue, officials may not apply discriminatory criteria in deciding where to place advertisements. Several bills to regulate the matter remain pending.

### **Judicial Independence**

President Fernández, her husband (former president Néstor Kirchner, who died in October 2010), and high level authorities repeatedly questioned decisions adopted by the judiciary in 2010. For example, in September the Supreme Court ordered the province of Santa Cruz to reinstate a former state attorney general who had been removed from his post in 1995, when former President Kirchner was governor of Santa Cruz, without following the legal procedure for his removal. President Fernández supported the governor, who refused to reinstate the attorney general, and stated that the ruling was unconstitutional.

### **Transnational Justice**

To date no one has been convicted for the 1994 bombing of the Jewish Argentine Mutual Association in Buenos Aires (AMIA), in which 85 people died and over 300 were injured. Criminal investigations and prosecutions have been hindered by judicial corruption and political cover-ups in Argentina, and by the failure of Iran, which is suspected of ordering the attack, to cooperate with the Argentine justice system. An Argentine federal court issued an international warrant for the arrest of former Iranian president Ali Akbar Hashemi-Rafsanjani and six Iranian officials in 2006, but demands for their extradition fell on deaf ears. In a speech at the United Nations in September 2010 President Fernández offered Iranian President Mahmoud Ahmadinejad the possibility of holding the trials in a neutral third country. In a letter to the UN in October Iran rejected the proposal as “unsustainable.”

In September 2010 the Argentine Supreme Court approved a request by Chile for the extradition of Galvarino Apablaza, a Chilean citizen facing criminal investigation for his alleged role in the assassination of former Chilean senator Jaime Guzmán, a close civilian

advisor of General Pinochet. A former leader of a left-wing armed group, Apablaza was also wanted in Chile for allegedly ordering the kidnapping of the son of a prominent newspaper owner. Both crimes were committed in 1991 after Chile's return to democratic rule. The Supreme Court ruled that the crimes were not political and approved the extradition subject to a ruling by Argentina's National Refugee Commission (CONARE) on Apablaza's long-standing request for political asylum in Argentina. CONARE, an inter-ministerial panel on which only government officials have the right to vote, decided unanimously to grant Apablaza political asylum. The grounds for the decision were not made public.

### **Conditions in Detention Facilities**

Overcrowding, abuses by guards, and inmate violence continue to be serious problems in detention facilities. In a landmark ruling in May 2005 the Supreme Court declared that all prisons in the country must abide by the UN Standard Minimum Rules for the Treatment of Prisoners, highlighting the deplorable conditions in the province of Buenos Aires. According to a report submitted to the Supreme Court in October 2009 by CELS, 4,507 people were being held in police stations in the province which are unsuited for long-term detention. CELS estimated that the provincial prison population was nearly 40 percent above capacity, the figure rising to nearly 65 percent if individuals held in police stations were included. Responding to this report in March 2010 the court again urged the province's Supreme Court to correct the "inhuman conditions" in detention facilities.

Detainee and prisoner access to medicines and medical services continues to be inadequate in many facilities despite HIV prevalence rates far higher than in the general population and conditions conducive to ill health.

### **Reproductive Rights and Marriage**

Women face numerous obstacles to reproductive health products and services such as contraception, voluntary sterilization procedures, and abortion after rape. The most common barriers are long delays in obtaining services, unnecessary referrals to other clinics, demands for spousal permission contrary to law, financial barriers, and, in some cases, arbitrary denials. As a direct result of these barriers, women and girls may face unwanted or unhealthy pregnancies. Unsafe abortions have been a leading cause of maternal mortality for decades. Government oversight of reproductive health care and accountability practices are woefully deficient.

In a major advance for lesbian, gay, bisexual and transgender rights, Argentina in July became the first Latin American country to legalize same-sex marriage.

## **Key International Actors**

In June 2010 the Inter-American Commission on Human Rights expressed “deep concern” about conditions in Argentina’s police jails and prisons, and urged the government to end the use of police stations as detention centers.

Argentina continued to positively engage on human rights issues at the UN Human Rights Council and in other international settings. At the Council, Argentina has consistently voted in a principled way to ensure scrutiny of human rights violators. It also has played a key role in opposing a proposed UN resolution on defamation of religion that would undermine freedom of expression standards.