

## Argentina

Argentina continues to make significant progress prosecuting military and police personnel for enforced disappearances, killings, and torture during the country's "dirty war" between 1976 and 1983, although trials have been subject to delays.

Argentina adopted comprehensive legislation to regulate broadcast and print media in 2009, and was still in 2011 considering bills to promote access to information. The impact of this legislation on freedom of expression will depend on how it is implemented by a new regulatory body established in the law.

Significant ongoing human rights concerns include deplorable prison conditions, torture, 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 stopped prosecution of such cases, and the 1987 "Due Obedience" law, which granted immunity in such cases to all members of the military except those in positions of command. In 2005, the Supreme Court upheld the unconstitutionality of the amnesty laws, originally decided by a judge in 2001 in a case brought by CELS and Abuelas de Plaza de Mayo. Starting in 2005, federal judges struck down pardons that then-President Carlos Menem issued between 1989 and 1990 to former officials convicted of or facing trial for human rights violations.

As of October 2011, according to the Center for Legal and Social Studies (CELS), 379 cases involving killings, "disappearances," and torture (in which CELS participated) were under judicial investigation or being tried in court. Of 1,774 alleged perpetrators, 749 were facing charges for these crimes, and 210 had been convicted.

Trials have been subject to delays at the appellate level, with appeals normally taking more than two years to be heard after the sentence of the trial court. At this writing the Supreme Court had confirmed final sentences in only four of the cases reactivated after the annulment of the amnesty laws.

In March 2011 the First Federal Oral Court sentenced an army general to life imprisonment and three agents to prison terms between 20 and 25 years for the murder, torture, and illegal arrest of detainees held in the 1970s in a secret detention center in Buenos Aires, the capital, known as Automotores Orletti. It was the first conviction in Argentina of participants in Plan Condor, a scheme by which the military rulers of the region coordinated the abduction, interrogation, and “disappearance” of political opponents. More than 30 Uruguayans abducted in Argentina in 1976 were held at Automotores Orletti, before some were transferred back to Uruguay. Others “disappeared.”

Security of witnesses in human rights trials continues to be a concern. Jorge Julio López, 79, 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.

### **Freedom of Expression and Access to Information**

A bill to regulate the broadcast media, which Congress approved 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 law contains vague definitions of what “faults” could lead to sanctions—including the revocation of broadcasting licenses—and establishes a new regulatory body to interpret and implement its provisions. The law has faced numerous legal challenges. In October 2010 the Supreme Court upheld an injunction suspending application of an article of the law that would oblige companies to sell within a year outlets that exceed the new legal limits.

The Supreme Court has defended the right of print media not to be discriminated against in the allocation of official advertising. In March 2011 it unanimously upheld an administrative court ruling in favor of Perfil publications, which had filed a petition for an injunction against the government for refusing to allocate advertising to *Noticias* and *Fortuna* magazines, and to the *Perfil* newspaper, because of their editorial positions. The Supreme Court had published a similar ruling in 2007 against the provincial government of Neuquén in a complaint filed by the *Rio Negro* newspaper.

In September 2011 a judge subpoenaed Argentina’s leading newspapers to provide the contact information of journalists and editors who have covered the Argentine economy since 2006, so that he could question them about their sources. Official statistics on the inflation rate have been widely questioned in recent years and many newspapers rely for inflation estimates on private consultancies, one of which the Commerce Secretary had

accused of willfully falsifying the figures, a criminal offense in Argentina. The subpoenas threatened the press's freedom to freely publish information of public interest.

A proposed law to ensure public access to information held by state bodies has been stalled in the Chamber of Deputies since it received Senate approval in September 2010.

### **Conditions in Detention Facilities**

Overcrowding, inadequate physical conditions, abuses by guards, and inmate violence continue to be serious problems in detention facilities. Following a visit to the province of Buenos Aires in June 2010, the Organization of American States' special rapporteur on the rights of persons deprived of their liberty reported that, according to official figures, 4,040 inmates (out of a provincial prison population of 30,132) were being held in police lockups not designed or equipped to hold detainees for long periods. The special rapporteur expressed concern about the abusive use of pre-trial detention, torture and ill-treatment by police guards, poor sanitary conditions, and deficient medical attention in these facilities.

According to CELS, the situation in February 2011 had scarcely improved. Despite a slight decline in the number held in preventive detention and in police lockups, conditions remained deplorable, and overcrowding and violence in the prison system had increased. According to CELS, there were 124 prison deaths due to abusive conditions in 2010.

### **Torture**

Torture and ill-treatment are common problems. Government authorities and the legislature have taken some steps to curb abuse of detainees. In December 2010 the Public Defender's Office set up a National Register of Torture and Ill-treatment, a torture data bank aimed at registering, documenting, and following up on denunciations of torture, "other forms of institutional violence," and inhumane conditions of detention. Legislation creating a national system of torture prevention, drafted by a wide range of civil society groups, was approved unanimously in the Chamber of Deputies in September 2011. It awaits a final vote in the Senate to become law. Argentina is a party to the Optional Protocol to the Convention against Torture, which it ratified in September 2004.

### **Transnational Justice**

At this writing no one had been convicted for the 1994 bombing of the Jewish Argentine Mutual Association in Buenos Aires in which 85 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. President Fernández de Kirchner has repeatedly called for justice in annual speeches at the United Nations since taking office in 2007, as did her husband, former President Néstor Kirchner, who died in 2010. In September 2011 she told the UN that she would accept an Iranian government proposal to open a dialogue about the case, but only if it brought concrete results.

## **Reproductive Rights**

Abortion is illegal, with limited exceptions, and women and girls 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. In addition, government oversight of reproductive health care and accountability practices are woefully deficient. As a result of these barriers, women and girls may face unwanted or unhealthy pregnancies. Approximately half-a-million illegal abortions occur every year, and unsafe abortions have been a leading cause of maternal mortality for decades. Several proposals to decriminalize abortion were pending before the Chamber of Deputies at this writing.

## **Key International Actors**

In December 2010 the Inter-American Commission on Human Rights took the case of Jorge Fontevecchia and Héctor D'Amico, founder and director respectively of the magazine *Noticias*, to the Inter-American Court of Human Rights. In 2001 the Supreme Court ordered the two journalists and Perfil Publications (the owner of *Noticias*) to pay damages of US\$60,000 to former President Carlos Menem for articles published in 1995 about his extramarital affair with a former schoolteacher, on the grounds that the articles violated his right to privacy. It was the first time the court has been asked to deliver a judgment on a privacy claim for damages involving a question of public interest.

Argentina has 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. In 2011, for example, it co-sponsored special sessions on Libya and the Côte d'Ivoire, and voted in favor of all resolutions addressing country situations that were put to a vote.