United Nations A/HRC/WG.6/14/ARG/3

General Assembly

Distr.: General
19 July 2012
English
Original: English/Spanish

Human Rights Council
Working Group on the Universal Periodic Review
Fourteenth session
Geneva, 22 October–5 November 2012

Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21

Argentina*

The present report is a summary of 37 stakeholders' submissions[1] to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Resolution 16/21 of the Human Rights Council, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

* The present document was not edited before being sent to United Nations translation services.

I. Information provided by the accredited national human rights institution of the State under review in full compliance with the Paris Principles

1. In March 2012, the Ombudsman's Office examined the implementation by Argentina of some of the recommendations made to it in the first cycle of the universal periodic review.[2]

2. Regarding recommendation No. 3, the Ombudsman's Office stated that implementation of the Patria Grande programme had improved the situation of migrants, although discrimination persisted.[3] The Office noted with appreciation the Senate's adoption of an amendment to the Trafficking in Persons Act in 2011.[4]

3. Regarding recommendation No. 6, the Ombudsman's Office welcomed the bill on the establishment of a national mechanism for the prevention of torture.[5]

4. Regarding recommendation No. 8, on the prison service, the Ombudsman's Office said that it had received reports of ill-treatment, inadequate conditions of detention and a lack of medical care.[6] Overcrowding persisted and there was no separation between accused and convicted inmates, or between first-time and repeat offenders.[7]

5. Regarding recommendations Nos. 12 and 13, less than half of Argentina's provinces had harmonized their legislation with the Protection of Children and Adolescents Act.[8] Moreover, there was a conflict between that act and the Juvenile Justice Act.[9]

6. Regarding recommendations Nos. 15 and 16, Argentina had made progress in legislating on indigenous rights but needed to ensure the legislation was effectively implemented.[10] Despite the existence of a law on the possession and ownership of lands occupied by indigenous peoples, and its extension up to 2013,[11] the Ombudsman's Office continued to receive reports of evictions.[12]

7. With regard to new developments, the Ombudsman's Office drew attention to the persistent non-compliance with legislation on persons with disabilities.[13] Their access to jobs was hampered by innumerable obstacles, as well as by physical barriers in public buildings and thoroughfares. There was insufficient public transport suitable for people with disabilities.[14]

8. In addition, the Ombudsman's Office drew attention to a report on the link between disability and the unlawful use of agrochemicals, and recommended, inter alia, changing the methodology used to classify the toxicity of agrochemicals.[15]

9. Regarding the environment and human rights, the Ombudsman's Office pointed out that approximately 13 million children were exposed to environmental risks: 58 per cent because of inadequate sanitation infrastructure, 42 per cent because they lived in close proximity to industrial activity, 29 per cent because they lived in areas in which pesticides were used, and 3 per cent because they lived in areas where oil-related operations were being carried out.[16]

II. Information provided by other stakeholders

A. Background and framework

1. Scope of international obligations

10. The Colectivo de Derechos de Infancia y Adolescencia (CDIA) recommended the adoption of draft law D-1377, approving the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure.[17]

2. Constitutional and legislative framework

11. The Equipo Latinoamericano de Justicia y Género (ELA)[18] and the Fundación para la Salud Adolescente (FUSA)[19] acknowledged that laws recognizing women's rights had been passed, but stressed that the main problem was the gap between legislation and reality. The criminalization of abortion was one of the main outstanding issues.

12. The Multisectorial por la Diversidad en Tucumán (MDT)[20] and the Federación Argentina de Lesbianas, Gays, Bisexuales y Trans (FALGBT)[21] acknowledged the progress made in improving the situation of the lesbian, gay, bisexual and transgender community and highlighted the adoption of the Equal Marriage Act, which allowed same-sex couples to marry.[22]

13. The Fundación para Estudio e Investigación de la Mujer (FEIM) noted the adoption in 2009 of the Violence against Women Act[23] but regretted that it had not been fully implemented.[24] FEIM added that penalties for marital rape had still not been increased and that sexual harassment and femicide were not established as separate offences in the Criminal Code.[25]

14. The Foro Social de Salud y Ambiente (FSSA)[26] and Joint Submission 5[27] drew attention to the adoption of Act No. 266257 on mental health but regretted that, over a year later, the State had still not issued the corresponding implementing regulations.[28]

15. SOS Children's Villages-Argentina reported that progress had been made on child rights legislation. However, some provinces still did not have an appropriate legal framework[29] and the Civil Code needed to be harmonized with child rights legislation.[30]

16. The Asociación Pensamiento Penal (APP) reported that each of the country's 25 provinces had a code of misdemeanours and that the resulting diversity of punitive measures undermined the right to equality before the law.[31] The Movimiento Afrocultural (MAC) stressed that, in some provinces, persons of African descent were detained under such a code simply for being in the street.[32] FALGBT said that the codes penalized gender identities.[33] MDT deplored the persecution suffered by transgender women at the hands of the police under the codes[34] APP recommended aligning the legislation relating to misdemeanours with the Constitution and with international human rights law.[35]

3. Institutional and human rights infrastructure and policy measures

17. The Centro de Estudios Legales y Sociales (CELS)[36] deplored the State's failure to establish a national mechanism for the prevention of torture. Amnesty International,[37] Human Rights Watch[38] and Joint Submission 5[39] added that a group of organizations had prepared a bill, which had been approved by the Chamber of Deputies but was still pending adoption by the Senate.[40]

18. SOS Children's Villages-Argentina,[41] Campaña Argentina por el Derecho a la Educación,[42] CDIA[43] and Joint Submission 5[44] drew attention to the fact that, after six years, the State had still not appointed an ombudsman for child and adolescent rights.

19. CELS pointed out that political interference in the National Statistics and Census Institute had made access to information more difficult and reduced the credibility of official statistics. Furthermore, the State was failing to provide inequality-sensitive data and data disaggregated by gender.[45] Similar concerns were expressed by ELA,[46] FEIM,[47] Fundación LED (FLED),[48] Human Rights Watch[49] and Joint Submission 10.[50]

B. Cooperation with human rights mechanisms

20. ELA[51] and Joint Submission 7[52] stated that they were not aware of any process of consultation with civil society in the preparation of the national report for the universal periodic review.

C. Implementation of international human rights obligations

1. Equality and non-discrimination

21. Joint Submission 8 welcomed the State's efforts to promote the integration of indigenous peoples and immigrants but regretted that those communities continued to face discrimination.[53]

22. The Instituto Argentino para la Igualdad, Diversidad e Integración (IARPIDI) noted that anti-discrimination laws did exist, and acknowledged that persons of African descent had been partially covered in the 2010 national census.[54] However, concrete action was needed to eradicate discrimination against persons of African descent.[55] IARPIDI recommended that the office of the President, provincial governments and political parties should issue an official declaration on anti-racism;[56] that a national affirmative action plan should be drawn up;[57] that an official apology should be issued for the crimes against humanity suffered by the Afro-descendant community; and that the Afro-Argentine historical memory should be reconstructed.[58] MAC expressed the view that people of African descent were systematically scorned and their existence denied.[59]

23. According to MAC, the National Institute to Combat Discrimination, Xenophobia and Racism was not in a position to resolve the problems faced by the Afro-descendant community, since its role was limited to describing and reporting on such issues.[60]

24. FALGBT pointed out that anti-discrimination law still failed to recognize gender identity and sexual orientation as determinants of discrimination.[61]

2. Right to life, liberty and security of the person

25. CELS reported an increasing number of violent evictions and clampdowns culminating in death, injury and arbitrary detention.[62] The University of Oklahoma College of Law International Human Rights Clinic (IHRC-OU) highlighted that racial violence against indigenous communities continued to be prevalent, especially when there was a territorial dispute. Acts of violence against indigenous communities were not investigated. Indigenous criminal defendants did not enjoy with full legal protections reflective of their cultural norms and values, and often lacked defence counsel.[63]

26. Amnesty International[64] and Human Rights Watch[65] said that torture was a recurring problem in Argentina. Joint Submission 5 claimed that torture was practised systematically in detention facilities in Buenos Aires Province.[66] According to CELS, torture persisted owing to judicial impunity. A total of 14,366 federal cases concerning unlawful coercion and torture had been opened between 2000 and 2011. Only 4 per cent of those cases were classed as torture and only 0.32 per cent had resulted in a conviction.[67]

27. Joint Submission 5 noted that young people between the ages of 18 and 32 years were the worst affected by institutional violence. The perpetrators included prison and police officers in Buenos Aires.[68]

28. CELS reported that the majority of detainees were subjected to conditions of detention that seriously violated their rights. Detention centres were characterized by a high incidence of violence and overcrowding, particularly in Buenos Aires Province.[69]

29. The Inter-American Commission on Human Rights (IACHR) expressed concern about the detention conditions in the Buenos Aires Province. The State must ensure conditions compatible with dignity and establish mechanisms to remedy overcrowding, in keeping with the Commission's *Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas.*[70]

30. Amnesty International recommended to improve conditions in all prisons and detention facilities to ensure compliance with international standards, including the United Nations Standard Minimum Rules for the Treatment of Prisoners; ensure that all allegations of torture and other ill-treatment are thoroughly and impartially investigated, and that alleged perpetrators are brought to justice.[71]

31. Joint Submission 5 noted that women in the prison system were subjected to: ill-treatment; a constant series of humiliating checks and searches; excessive use of isolation as a control measure; constant transfers, during which they suffered from all kinds of violence; broken family ties; and programmes and measures designed and implemented for male detainees.[72] The inadequacy of the prison health system constituted the gravest violation of the rights of female detainees.[73]

32. FALGBT said that the treatment of lesbian, gay, bisexual and transgender detainees remained at the discretion of the prison authorities, on the basis of regulations that provided for punishments for reasons of "morality". Members of the transgender community were usually kept in isolation or placed with persons detained in connection with gender crimes.[74]

33. Joint Submission 1 stated that violence against women continued to be a serious problem, particularly in the family setting, where almost 80 per cent of cases occurred.[75] It added that the incidence of femicide had risen at an alarming rate.[76]

34. ELA pointed out that the main obstacles to ending violence against women were the lack of statistics, difficulties faced by victims in accessing justice, and the lack of public policies.[77] It urged the State to devise and implement policies to facilitate victims' access to justice, including a broad range of free services related to legal assistance and psychological care, shelters and financial support.[78]

35. Joint Submission 2 noted that trafficking in women was a very present reality. Women were abducted from the poorest northern regions. They first passed through different provinces, where they were assaulted and raped by traffickers to break their will. Victims were then moved to locations to supply clients' demands, including Buenos Aires, Mar del Plata, Rio Gallegos and even Spain.[79]

36. The Comité Argentino de Seguimiento y Aplicación de la Convención Internacional de los Derechos del Niño (CASACIDN) acknowledged that programmes had been set up and funds allocated for the protection of children's rights. However, many proposals had not moved beyond the drawing board, and those programmes that had been implemented were fragmented and had overlapping objectives and target groups.[80] In the field of prevention and promotion, there were no policies in place to alert the general public to the crimes of child trafficking, sexual exploitation of children, sale of children, child prostitution and use of child pornography.[81]

37. CASACIDN recommended that the State follow, in its policies, programmes and laws, the regionally and internationally agreed definitions of commercial sexual exploitation, sale and trafficking of children, sexual tourism and child pornography.[82]

38. Joint Submission 8 noted the large numbers of child victims of sexual exploitation and trafficking. It cited the disappearances of girls and young women, some of whom had later been found dead. Babies were stolen and sold, and prostitution flourished in the ports of Patagonia.[83]

39. MDT noted that efforts to address trafficking in persons did not cover transgender persons. Every month, young transgender persons between the ages of 13 and 18 years arrived in Tucumán and were absorbed into the prostitution system.[84]

40. Stressing that State officials were often involved in the above-mentioned illegal activities,[85] Joint Submission 8 recommended that the Government adopt measures to combat sexual exploitation and trafficking in persons and clamp down on corruption and the involvement of officials in such activities.[86]

41. CELS expressed concern that, in the textile industry and in the countryside, undocumented workers and the extremely poor were exploited, subjected to inhumane conditions and often deprived of their liberty.[87]

42. The Global Initiative to End All Corporal Punishment of Children (GIEACPC) observed that during the first review of Argentina a recommendation to prohibit corporal punishment appeared in the body of the UPR Working Group report but was not included in the summary of recommendations. So there was no record of the Government's position.[88] Besides, GIEACPC acknowledged that corporal punishment had been explicitly prohibited in penal institutions. However, it remained lawful in the home and alternative care settings.[89]

3. Administration of justice, including impunity and the rule of law

43. The Colegio de Abogados de Buenos Aires (CACBA) expressed concern that several emblematic decisions passed by the Supreme Court were never obeyed by the Executive.[90] Additionally, a number of judges who ruled against the Executive were the target of disqualification from government officials.[91]

44. CACBA considered that the Executive also interfered with the Judiciary by delaying the appointment of judges. Twenty-five per cent of the positions were held by provisional magistrates.[92] Likewise, the reform of the law governing the *Consejo de la Magistratura* resulted in this agency becoming exclusively controlled by the Executive.[93]

45. CACBA reported that the Judiciary had failed to investigate recent events of corruption and to prosecute and convict current government officials. Most criminal complaints about serious cases either became unenforceable or were archived.[94] Amnesty International reported that with regard to recent human rights violations, investigations either did not take place or took too long.[95]

46. Amnesty International,[96] CACBA[97] and CELS[98] acknowledged that significant progress had been made in prosecuting the crimes of the last dictatorship. However, CELS felt that there remained barriers to obtaining justice for crimes against sexual integrity committed during, but independently of, the dictatorship.[99]

47. CELS reported that the juvenile justice system was still incompatible with the Convention on the Rights of the Child, as it did not guarantee due process for minors accused of crime.[100]

4. Right to family life

48. SOS Children's Villages-Argentina acknowledged that a deinstitutionalization process had been introduced for the benefit of children who had to be temporarily removed from their families. However, the manner of its implementation was inconsistent with the principle of the best interests of the child and did not follow rigorous procedures.[101] The organization recommended applying the United Nations Guidelines for the Alternative Care of Children, in particular with regard to working with the families of origin.[102]

5. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

49. The Coalición Argentina por un Estado Laico (CAEL) reported that Catholicism enjoyed a more privileged legal status than other religions,[103] which allowed the Catholic Church to block social progress that enjoyed broad support.[104] CAEL recommended that the Government reform the Constitution to remove the privileges of the Catholic Church and make Argentina a truly secular State,[105] and that it enact a law on freedom of conscience.[106]

50. CELS noted that Act No. 26.522 on audiovisual communication services, adopted in 2009, helped to ensure diversity in the Argentine media.[107] FLED pointed out that certain positive aspects of the new broadcasting regime had not yet become effective, such as the inclusion of new community radio stations or the granting of licences for digital signals, for which public calls for tender had been postponed four times.[108]

51. IACHR highlighted that the decriminalization of the criticism of matters of public interest, adopted by Congress in 2009, contributed to protecting freedom of expression and promoting stronger public debate under democratic conditions.[109]

52. FLED reported that a number of political developments over the last few years had limited freedom of expression, freedom of the press and freedom of dissent. Freedom of expression had been undermined by various pieces of recent legislation, while the protection of journalists and freedom of the press were threatened by undue pressure.[110]

53. In addition, resources allocated for publicizing Government action were being used to co-opt or punish opponents.[111] FLED recommended that the Government adopt a law to regulate, in all transparency, the use of official announcements[112] and that it provide information on resources allocated to the media.[113]

54. CACBA reported that, in early 2010, the Supreme Court decided to restore to a publishing house the media buy it had been arbitrarily deprived of, as punishment for its editorial policy. The Executive had ignored this decision.[114] Also, in 2010, a judge banned the blockade against the printing plants of two independent newspapers but the Executive indulgently endorsed this blockade.[115]

55. Various organizations expressed concern about the adoption, in December 2011, of Act No. 26.734 on counter-terrorism, which contained vague definitions that could be used to criminalize protests against the expansion of agricultural activities and the intensification of mining activity.[116]

56. Joint Submission 7 recommended revising the Counter-Terrorism Act to prevent its application to the repression of social protest movements,[117] addressing social conflicts through negotiation,[118] and ensuring that protesters were not discredited in the authorities' public statements.[119]

57. Joint Submission 10 stated that Argentina had no law on access to information.[120] ELA noted that there was an executive decree regulating access to information but that requests for information were systematically rejected.[121] Joint Submission 10 recommended

the adoption of a law on access to information[122] and the establishment of an open-government programme.[123]

58. IACHR acknowledged that Argentina had managed to achieve significant women's participation in the two houses of parliament, partly attributable to a quota law. However, women's political participation in the Executive, and in municipal and provincial governments, was quite low.[124]

6. Right to work and to just and favourable conditions of work

59. ELA reported strong labour-market segmentation along gendered lines, both horizontally and vertically. It pointed to the significant numbers of women in low-skilled jobs and noted that women occupied the majority of unregistered jobs.[125]

60. ELA stressed that the most worrying cases of job insecurity could be found in the domestic service sector, which was governed by special regulations that limited labour rights and access to social security. A bill had been drafted by the Executive to repeal those regulations and was awaiting consideration by the Senate. ELA recommended introducing policies to formalize domestic work.[126]

61. The Ombudsman's Office of Buenos Aires drew attention to the fact that no regulations had been issued to implement the legal quota for employees with disabilities, which had been pending for 20 years.[127]

7. Right to social security and to an adequate standard of living

62. Joint Submission 8 expressed concern that the right to housing of 80 per cent of the rural population was threatened by, inter alia, insecurity of tenure, land speculation and migration sparked by evictions, conflicts and large-scale development projects.[128]

63. The Ombudsman's Office of Buenos Aires acknowledged the progress made with regard to social security for persons with disabilities and the application of the Single Disability Certificate.[129]

8. Right to health

64. According to FSSA, the State should work towards establishing a unified public health system that was comprehensive, free and universally accessible to everyone in Argentine territory.[130] FSSA also proposed that an emergency fund be set up immediately to address the population's health-care needs.[131]

65. Joint Submission 6 reported that non-transmissible chronic diseases were the primary cause of death in Argentina[132] and that the highest rates of obesity and diabetes, and the lowest quality of diet, were found among the poorest communities.[133] However, there was no regulatory framework in place for the prevention or control of such diseases, which constituted a violation of the right to health.[134]

66. Given that 40,000 people died every year in Argentina as a result of tobacco consumption,[135] Joint Submission 6 said that the State should ratify the Framework Convention on Tobacco Control[136] and regulate the Tobacco Control Act (No. 26.687) with regard to the enforcement of smoke-free zones, restriction of advertising and inclusion of health warnings on cigarette packets.[137]

67. Joint Submission 2 was concerned about the considerable rate of alcohol and drug addiction, whose main victims were adolescents and young adults between 10 and 25 years. This problem affected all social classes, but mainly poor people.[138]

68. Amnesty International,[139] Joint Submission 1[140] and Joint Submission 4[141] stated that abortion-related complications were the primary cause of maternal mortality in Argentina

and that the majority of victims were very young women with limited resources. Joint Submission 4 pointed out that every year over 500,000 abortions were performed and public hospitals recorded almost 60,000 admissions due to unsafe abortions.[142]

69. Amnesty International further explained that, according to article 86 of the Criminal Code, women and girls for whom pregnancy posed a mental or physical health risk, or whose pregnancy was the result of rape, were entitled to a legal abortion. This article had been inconsistently interpreted. In March 2012, the Supreme Court clarified the content of article 86 establishing that any victim of rape should have access to safe abortion, and that a judicial order was not required to provide this treatment. However, some local authorities had expressed disagreement with the Supreme Court judgement and it was not clear whether it would be obeyed.[143]

70. FUSA recommended that the State guarantee access to non-punishable abortion, in accordance with the "Guide for the Comprehensive Care of Non-Punishable Abortions" of the Ministry of Health and the Supreme Court judgement of 13 March 2012,[144] and that it initiate a parliamentary debate to amend legislation that criminalizes women who terminate an unwanted pregnancy.[145]

71. Joint Submission 4 stated that there were widespread appeals for the legalization of abortion, to grant women access to voluntary termination of a pregnancy up to 12 weeks of gestation, without discrimination, in public hospitals.[146]

72. Joint Submission 1[147] and Joint Submission 4[148] expressed the view that implementation of the National Programme on Sexual Health and Responsible Procreation was inconsistent and needed to be evaluated.[149] It was a cause for concern that health professionals were setting criteria not established by law and exercising covert forms of conscientious objection, hindering access to the services provided under the programme.[150]

73. FEIM reported a significant increase in HIV/AIDS among women, particularly in the 15–24 and 15–19 age groups, where the ratio of infected men to women was 9:10 and 8:10 respectively.[151] FEIM added that HIV-positive people faced discrimination in sexual and reproductive health services.[152]

9. Right to education

74. CADE acknowledged that investment in education had been steadily increasing.[153] However, the funding arrangements for education, based on the federal system, allowed inequalities to become entrenched. For example, in 2009, Salta Province had invested five times less per student (Arg$ 2,800) than Tierra del Fuego Province (Arg$ 13,700).[154]

75. Joint Submission 2 was concerned about the quality of teaching in public schools. There were high rates of absenteeism and change among teachers and these paid little attention to the completion of the curriculum.[155] Joint Submission 2 also considered that school dropouts remained important. Most affected were young people from poor and rural families who left school to seek work.[156]

76. Joint Submission 6 stated that, although the right of indigenous peoples to intercultural education was legally recognized, it had not been realized in most provinces.[157] Joint Submission 2 welcomed the implementation, between 2008 and 2012, of 14 bilingual and intercultural educative structures in San Juan.[158]

77. CADE reported that only 29.3 per cent of students with disabilities were receiving an education in mainstream schools.[159] It recommended that national and local education standards be harmonized with the Convention on the Rights of Persons with Disabilities.[160]

78. CADE acknowledged that Argentina had adopted legislation to ensure access to education for foreigners, regardless of their migration status. However, foreign children

faced various difficulties in exercising their right to education.[161] In addition, the failure of the curriculum to cover the topic of migration allowed discriminatory attitudes to persist.[162]

79. MDT regretted that transgender girls and adolescents suffered violence and sexual harassment in school at the hands of classmates and teachers.[163]

80. FALGBT expressed the view that religious education continued to be one of the main perpetuators of prejudice, discriminatory discourse and harassment in the school environment.[164]

81. FALGBT welcomed the establishment by law, in 2006, of a comprehensive sex education programme. However, between 2008 and 2011, little or no progress had been made in implementing the programme.[165] According to CADE, one of the problems was that each district had the autonomy to apply the programme according to its own circumstances.[166] Joint Submission 1 recommended that federal and provincial policies be coordinated to achieve effective delivery of comprehensive sex education.[167] MDT recommended incorporating diversity of sexual feeling and expressions of gender identity in the application of the law on comprehensive sex education.[168]

10. Persons with disabilities

82. Regarding the rights of persons with disabilities, the Federación Argentina de Instituciones de Ciegos y Amblíopes (FAICA) considered that the Government had taken no further measures after the ratification of CRPD. Some of the pending issues were accessibility to elections; public transportation; physical accessibility for public and private sector.[169]

83. The Ombudsman's Office of Buenos Aires stressed the need to honour commitments made to persons with disabilities in the areas of communications and elections, and to remove restrictions on the voting rights of deaf persons, or persons with other disabilities, whose legal capacity was not limited.[170] Restrictions should be lifted on the voting rights of persons with disabilities whose legal capacity was limited.[171]

11. Indigenous peoples

84. Joint Submission 9 expressed the view that in the four years since Argentina's first universal periodic review, the State had made no progress in establishing effective mechanisms for indigenous peoples to exercise their right to consultation and participation.[172]

85. Joint Submission 9 recommended that the State cooperate with indigenous peoples to introduce nationally applicable legislation on prior consultation,[173] a process for the demarcation and titling of indigenous land,[174] and measures to prevent acts of violence against members of indigenous communities.[175]

86. HRC-OU considered that Government policies towards indigenous communities were inconsistent. Mechanisms had not been fully put into place to give communal title of the traditional lands to the indigenous communities. Indigenous peoples' land rights were violated by government-sanctioned exploitation of traditional lands without consent or compensation. Business enterprises, operating under government sanction, had exploited resources, contaminated waterways and land, and barred right of access to indigenous lands. Civil demonstrations protesting interferences with land rights had been met with violence.[176] The Unrepresented Nations and Peoples Organization (UNPO) presented the specific situation faced by the Mapuche people in Neuquén and Rio Negro.[177]

87. Joint Submission 3 stated that the problems affecting indigenous peoples extended beyond land rights. The fact that those peoples faced poverty and marginalization revealed the flaws and shortcomings of public policies on indigenous matters.[178]

88. FOCO-INPADE (Foro Ciudadano de Participación por la Justicia y los Derechos Humanos – Instituto para la Participación y el Desarrollo) expressed the view that, despite the existence of the National Institute of Indigenous Affairs and the Indigenous Participation Council, no participation mechanisms had been established for determining the use of natural resources and habitat.[179] Joint Submission 9 said it was a problem that policies on local development, land and resource use fell under the remit of the provincial authorities, over which the National Institute of Indigenous Affairs had no power.[180]

89. Joint Submission 9 drew attention to the fact that Act No. 26.160, suspending evictions for four years and ordering a survey of indigenous lands, had not been implemented even though that time frame had been extended to 2013 by Act No. 26.554.[181] Furthermore, it was cause for concern that the Executive had recently submitted to Congress, without consulting indigenous peoples, a draft reform of the Civil Code which proposed including indigenous communities' ownership rights under private law.[182]

12. Migrants, refugees and asylum seekers

90. IARPIDI acknowledged that Argentina had aligned its procedure for determining refugee status with international standards. However, adult asylum seekers were receiving no material assistance.[183]

91. IARPIDI noted that refugees and asylum seekers were victims of ill-treatment, discrimination, xenophobia, marginalization and social exclusion, on the basis of their origin or ethnicity.[184]

92. CELS acknowledged the entry into force, in 2010, of the implementing regulations of the Migration Act. However, migration procedures and regularization programmes continued to present problems, such as: the ineffective regularization of nationals of States and Associate Member States of the Southern Common Market (MERCOSUR); the restrictive interpretation of regularization criteria for nationals of certain countries outside MERCOSUR; and the exclusion of the self-employed or workers not in possession of a contract.[185] IARPIDI drew attention to the problems faced by African migrants in obtaining a residence permit, and their consequent vulnerability to harassment by the security forces.[186] The Ombudsman's Office of Buenos Aires noted that immigrants with disabilities who had resided in Argentina for less than 20 years remained excluded from the non-contributory pension scheme.[187]

13. Right to development, including environmental issues

93. FOCO-INPADE,[188] Joint Submission 7[189] and FSSA[190] said that the use of highly toxic pesticides such as glysophate in the agro-industry posed health and environmental risks. Joint Submission 7 recommended conducting a public assessment, with the participation of the affected population, of the impact of the expansion of soya cultivation on the enjoyment of human rights by rural communities.[191]

Notes

[1] The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a national human rights institution with "A" status):

Civil society

AI	Amnesty International, London, United Kingdom;
AISORARG	Aldeas Infantiles SOS Argentina, Buenos Aires, Argentina;

APP	Asociación Pensamiento Penal, Viedma, Río Negro, Argentina;
CACBA	Colegio de Abogados de Buenos Aires, Buenos Aires, Argentina;
CADE	Campaña Argentina por el Derecho a la Educación, Buenos Aires, Argentina;
CAEL	Coalición argentina por un Estado laico, Buenos Aires, Argentina;
CASACIDN	Comité Argentino de Seguimiento y Aplicación de la Convención Internacional de los Derechos del Niño, Buenos Aires, Argentina;
CDIA	Colectivo de Derechos de Infancia y Adolescencia, Red Nacional de Incidencia en Políticas Públicas y Organización de la Sociedad Civil, Buenos Aires, Argentina;
CELS	Centro de Estudios Legales y Sociales, Buenos Aires, Argentina;
DPCBA	Defensoría del Pueblo de Buenos Aires, Buenos Aires, Argentina;
ELA	Equipo Latinoamericano de Justicia y Género, Buenos Aires Argentina;
FAICA	Federación Argentina de Instituciones de ciegos y Amblíopes, Buenos Aires, Argentina;
FALGBT	Federación Argentina de Lesbianas, Gays, Bisexuales y Trans, Buenos Aires, Argentina;
FEIM	Fundación para Estudio e Investigación de la Mujer, Buenos Aires, Argentina;
FOCO-INPADE	Foro Ciudadano de Participación por la Justicia y los Derechos Humanos, Buenos Aires, Argentina;
FLED	Fundación LED Libertad de Expresión + Democracia, Buenos Aires, Argentina;
FSSA	Foro Social de Salud y Ambiente, Buenos Aires, Argentina;
FUSA	Fundación para la Salud Adolescente, Buenos Aires, Argentina;
GIEACPC	Global Initiative to end corporal punishment, London, United Kingdom;
HRW	Human Rights Watch, New York and Geneva;
IARPIDI	Instituto Argentino para la igualdad Diversidad e Integración, Buenos Aires, Argentina;
IHRC-OU	University of Oklahoma College of Law International Human Rights Clinic, Norman, Oklahoma, US;
JS1	Joint Submission Nº 1 – Akahatá, Equipo de Trabajo en Sexualidades y Géneros y la Iniciativa por los Derechos Sexuales, Buenos Aires, Argentina;
JS2	Joint Submission Nº 2 – Association Points-Coeur and The Congregation of Our Lady of Charity of the Good Shepherd, Geneva Switzerland;
JS3	Joint Submission Nº 3 – Asamblea Permanente por los Derechos Humanos y Asociación Americana de Juristas, Buenos Aires, Argentina;
JS4	Joint Submission Nº 4 – Asociación por los Derechos Civiles (ADC), Foro Ciudadano de Participación por la Justicia y los Derechos Humanos (FOCO), Centro de Estudios de Estado y Sociedad (CEDES), Comité de America Latina y el Caribe para la Defensa de los Derechos de la Mujer (CLADEM), Equipo Latinoamericano de Justicia y Genero (ELA), Fundación para Estudio e Investigación de la Mujer (FEIM), Foro por los Derechos Reproductivos (Foro DDRR), Instituto de Género, Derecho y Desarrollo (INSGENAR), Centro de Estudios Legales y Sociales (CELS), Católicas por el Derecho a Decidir Argentina (CDD), Argentina;

JS5	Joint Submission Nº 5 – Comisión por la memoria de la provincia de Buenos Aires y Familiares y Víctimas del sistema de la crueldad, Buenos Aires Argentina;
JS6	Joint Submission Nº 6 – The O'Neill Institute for National and Global Health Law, Fundación Interamericana del Corazón (FIC) – Fundación para el Desarrollo de Políticas Sustentables (FUNDEPS), Argentina;
JS7	Joint Submission Nº 7 – Grupo de Investigación en Derechos Humanos y Sostenibilidad (GIDHS), Movimiento Nacional Campesino Indígena de España (MNCI), Coordinadora Latinoamérica de Organizaciones del Campo (CLOC), Vía Campesina, Barcelona, España;
JS8	Joint Submission Nº 8 – Istituto Internazionale Maria Ausiliatrice (IIMA), International Volunteerism Organization for Women, Education, Development (VIDES International);
JS9	Joint Submission Nº 9 – Observatorio de Derechos Humanos de Pueblos Indígenas (ODHPI), Centro de Estudios Legales y Sociales (CELS), Abogados y Abogadas del Noroeste en Derechos Humanos y Estudios Sociales (ANDHES);
JS10	Joint Submission Nº 10 – Asociación por los Derechos Civiles (ADC) y ARTICLE XIX, FARN, Fundación para Estudio e Investigación de la Mujer (FEIM), Foro de Periodismo Argentino (FOPEA), Equipo Latinoamericano de Justicia y Género (ELA), Centro de Implementación de Políticas Públicas para la Equidad y el Crecimiento (CIPPEC), Fundación Mujeres en Igualdad Fundación Directorio Legislativo Asociación Civil por la Igualdad y la Justicia (ACIJ), Argentina;
MAC	Movimiento Afrocultural, Buenos Aires, Argentina;
MDT	Multisectorial por la Diversidad en Tucumán, Tucumán, Argentina;
UNPO	Unrepresented Nations and Peoples Organization, The Hague, Netherlands.

National human rights institution

DPN	Defensoría del Pueblo de la Nación,* Buenos Aires, Argentina.

Regional intergovernmental organization

IACHR	Inter-American Commission on Human Rights, Washington, DC, USA.

[2] DPN, paras. 1–23. The recommendations mentioned by the DPN can be found in document A/HRC/8/34.
[3] DPN, para. 1.
[4] DPN, para. 2.
[5] DPN, para. 3.
[6] DPN, para. 4.
[7] DPN, para. 6.
[8] DPN, para. 11.
[9] DPN, para. 12.
[10] DPN, para. 13.
[11] PN, para. 17.
[12] DPN, para. 18.
[13] DPN, para. 24.
[14] DPN, para. 25.
[15] DPN, paras. 27 and 28.
[16] DPN, para. 32.
[17] CDIA, paras. 35 and 36.
[18] ELA, para. 5.
[19] FUSA, para. 8.
[20] MDT, page 8.
[21] FALGBT, para. 1.

[22] FALGBT, para. 2 and MDT, page 6.
[23] FEIM, page 2.
[24] FEIM, page 3. See also AI, page 2.
[25] FEIM, page 3.
[26] FSSA, paras. 72 and 73.
[27] JS5, para. 55.
[28] See also JS5, para. 56 and CELS, paras. 30 and 31.
[29] AISOSARG, para. 3.
[30] AISORARG, para. 4.
[31] APP, para. 3.
[32] MAC, page 4.
[33] ALGBT, para. 14.
[34] MDT, pages 3 and 4.
[35] APP, para. 20.
[36] CELS, para. 9.
[37] AI, page 4.
[38] HRW, page 4.
[39] JS5, para. 2.
[40] JS5, para. 1.
[41] AISORARG, para. 6.
[42] CADE, page 4.
[43] CDIA, paras. 33 and 34.
[44] S5, para. 45.
[45] CELS, para. 14.
[46] ELA, para. 9.
[47] FEIM, page 2.
[48] FLED, page 5.
[49] HRW, page 3.
[50] JS10, para. 24.
[51] ELA, para. 2.
[52] JS7, page 2.
[53] JS8, para. 6.
[54] IARPIDI, paras. 9 and 11.
[55] IARPIDI, para. 9.
[56] IARPIDI, para. 13.
[57] IARPIDI, para. 13.
[58] IARPIDI, para. 13. See also MAC, page 5.
[59] MAC, page 5.
[60] MAC, page 2.
[61] FALGBT, para. 10.
[62] CELS, para. 15.
[63] IHRC-OU, page 5.
[64] AI, page 1.
[65] HRW, page 4.
[66] See also Press release N° 64/10, “IACHR RAPPORTEURSHIP CONFIRMS GRAVE DETENTION CONDITIONS IN BUENOS AIRES PROVINCE”, http://www.cidh.org/Comunicados/English/2010/64-10eng.htm and JS5, para. 7.
[67] CELS, para. 8.
[68] JS5, para. 6.
[69] CELS, paras. 1–3. See also AI, page 1, HRW, page 3 and JS5, para. 17.
[70] Press release N° 64/10, “IACHR RAPPORTEURSHIP CONFIRMS GRAVE DETENTION CONDITIONS IN BUENOS AIRES PROVINCE”, http://www.cidh.org/Comunicados/English/2010/64-10eng.htm.
[71] AI, page 4.
[72] JS5, para. 44.
[73] JS5, para. 35.

[74] FALGBT, para. 18.
[75] JS1, para. 16.
[76] JS1, para. 17.
[77] ELA, para. 10. See also AI, page 4 and JS10, para. 27.
[78] ELA, para. 14.
[79] JS2, para. 21. See also FEIM, page 4 and JS3, para. 44.
[80] CASACIDN, page 8.
[81] CASACIDN, page 9.
[82] CASACIDN, pages 7–8.
[83] JS8, para. 10. See also JS2, para. 19.
[84] MDT, page 5.
[85] JS8, para. 11.
[86] JS8, para. 13 (b).
[87] CELS, paras. 17–18.
[88] GIEACPC, para. 1.1.
[89] GIEACPC, para. 1.3
[90] CACBA, page 4.
[91] CACBA, page 5.
[92] CACBA, page 7.
[93] CACBA, pages 2–3.
[94] CACBA, page 2.
[95] AI, page 1.
[96] HRW, page 1.
[97] CACBA, page 2.
[98] CELS, paras. 22 and 25.
[99] CELS, paras. 22 and 25.
[100] CELS, para. 33. See also IACHR Report *Juvenile Justice and Human Rights in the Americas*, OEA/Ser.L/V/II. Doc. 78 July 13 2011, paras. 42 and 54.
[101] AISORARG, para. 10.
[102] AISORARG, para. 16 (c).
[103] CAEL, para. 1.
[104] CAEL, paras. 22 and 23.
[105] CAEL, page 5.
[106] CAEL, page 5.
[107] CELS, paras. 26 and 27.
[108] FLED, page 6. See also HRW, pages 2 and 3.
[109] ACHR Report *The Inter American Legal Framework regarding the Right to Freedom of Expression* OEA/Ser.L/V/II CIDH/RELE/INF.2/09, December 30 2009, Second Chapter, paras. 24 and 30–32.
[110] FLED, page 1. See also HRW, page 2.
[111] FLED, page 2.
[112] FLED, page 7.
[113] FLED, page 7. See also HRW, page 5.
[114] CACBA, page 4.
[115] CACBA, pages 4–5. See also FLED, pages 6 and 7.
[116] CELS, para. 16, FLED, page 7, JS7, page 8, JS9, page 7, UNPO, page 1.
[117] JS7, page 11.
[118] JS7, page 10.
[119] JS7, page 10. See also UNPO, page 4.
[120] JS10, para. 9.
[121] ELA, para. 9.
[122] JS10, para. 29. See also FLED, page 7 and HRW, page 5.
[123] JS10, para. 31.
[124] IACHR Report *The road to substantive democracy: women's political participation in the Americas*, OEA/Ser.L/V/II. Doc. 79, April 18 2011, para. 89.
[125] ELA, para. 15.
[126] ELA, paras. 22–24.

[127] DPCBA, para. 13.
[128] JS8, para. 14.
[129] DPCBA para. 7.
[130] FSSA, para. 19.
[131] FSSA, para. 25.
[132] JS6, para. 18.
[133] JS6, para. 22.
[134] JS6, para. 29.
[135] JS6, para. 25.
[136] JS6, para. 36.
[137] JS6, para. 52.
[138] JS2, para. 25.
[139] AI, page 1.
[140] JS1, para. 11.
[141] JS4, para. 43.
[142] JS4, para. 43.
[143] AI, page 2. See also CDIA, paras. 14–17, FUSA, paras. 16–18, HRW, pages 4 and 5, JS1, paras. 5–8, and JS4, paras. 30–39.
[144] FUSA, para. 25.
[145] FUSA, para. 26. See also JS1 paras. 12 and 13.
[146] JS4, para. 47. See also FSSA, para. 28.
[147] JS1, paras. 3 and 4.
[148] JS4, para. 3.
[149] JS4, para. 4.
[150] JS4, para. 7.
[151] FEIM, page 4.
[152] FEIM, page 4.
[153] CADE, pages 5 and 6.
[154] CADE, page 8.
[155] JS2, para. 15.
[156] JS2, para. 14.
[157] JS9, page 8. See also IHRC-OU, pages 4 and 5.
[158] JS2, paras. 11 and 12.
[159] CADE, page 10.
[160] CADE, page 11.
[161] CADE, page 11.
[162] CADE, page 12.
[163] MDT, page 6.
[164] FALGBT, para. 22.
[165] FALGBT, para. 20. See also FEIM, page 3, FUSA, para. 12 and JS4, para. 26.
[166] CADE, page 2. See also CAEL, para. 10, CASACIDN, page 9 and JS1, para. 26.
[167] JS1, para. 29. See also CADE, page 3, CAEL, page 5 and CASACIDN, page 10.
[168] MDT, page 9.
[169] FAICA, page 2.
[170] DPCBA para. 4.
[171] DPCBA para. 5.
[172] JS9, page 3.
[173] JS9, page 10. See also AI, page 5 and IHRC-OU, page 3.
[174] JS9, page 11. See also AI, page 5.
[175] JS9, page 12. See also JS7, page 7.
[176] IHRC-OU, pages 2 and 3. See also JS3, paras. 26 and 27.
[177] UNPO, pages 1–4. See also IHRC-OU, page 4.
[178] JS3, para. 13. See also JS8, paras 20–27.
[179] FOCO-INPADE, para. 15. See also JS7, page 5.
[180] JS9, pages 3 and 4.
[181] JS9, page 5. See also AI, page 2.

[182] JS9, page 6. See also CDIA, para. 9, IHRC-OU, page 3 and JS2, para. 10.
[183] IARPIDI, para. 4.
[184] IARPIDI, para. 5.
[185] CELS, para. 29.
[186] IARPIDI, para. 8.
[187] DPCBA, para. 9.
[188] FOCO-INPADE, para. 7.
[189] JS7, page 8.
[190] FSSA, para. 4.
[191] JS7, page 10.