

Argentina's Review in the Working Group
Wednesday 16 April 2008, Afternoon 2.30pm – 5.30pm
Analytical Summary by Tiffany Henderson

The Troika

The Ukraine, Cuba and Cameroon were the Troika members for the review of Argentina. Cuba was the only Troika member that did not ask a question. Cameroon mentioned that it was a Troika in their intervention.

Presentation by Argentina

The report and responses by Argentina were given by **H.E. Mr. Eduardo Luis Duhalde, Mr. Rodolfo Mattarollo Mr. Ciro V. Annicchiarico, Ms. Andrea Gualde and Mr. Rodolfo Mattarollo**. The delegation thanked the Office of the High Commissioner and Civil Society for their involvement in the reporting process. The Document of 30 April 'Basis for a National Human Rights Plan' was produced in cooperation with Civil Society and 23 Argentinean Provinces and in May 2008 they will begin a second dialogue to follow up on this review. The Delegation then proceeded to outline, **while acknowledging the significant problems** the achievements, both legal and non-legal, of Argentina, in the area of human rights:

Legal Measures to improve human rights

- Fight Against Impunity: Done through the Supreme Court of Justice which removed legal obstacles which had previously aided impunity seekers. There is no statute of limitations regarding crimes against humanity and the constitutionality of amnesty laws used can be contested before the court.
- The Mothers of the Plaza de Mayo: sought for legal remedies for missing persons since 1977. Now legal recognition in Argentina of the right to an identity.
- Scientific Teams put in place to locate the missing victims, and to locate persons dropped into the sea on 'death flights' and to collect samples of blood from families of the Condor Clan to make identification of their remains.
- Gender Equality improved through Resolution 2065 of the Human Right to Truth, applied in Argentina.
- Reparations of the children of the victims of missing persons coordinated by the Mothers of the Plaza de Mayo. Reparations also to compensate the victims of terrorism
- Law of **Children** put in place in 2003 to support children of parents who have disappeared for under political circumstances.
- Truth and Justice Program: set up to search for legal procedures that supported impunity and prevent anonymous threats and physical aggression by the State. Aimed at protecting those persons who intervene in court cases and their groups.
- **Prison:** improving conditions of detention to prevent cases of cruel, inhumane and degrading treatment of inmates. Inter-American Court of Human Rights has made rulings in regards to this. Provincial Commission for Memory: institution that visits jails without prior notice or indication and they interview detainees exhaustively to ensure their human rights are respected. Demilitarisation of Prisons
- Ratified the Optional Protocol on the Convention Against Torture: was the first Federal Regime in the world to ratify it.
- Established the National Institution Against Xenophobia and Racism (NIAXR) set up within the Ministry of Justice and Human Rights which brings together NGOs and institutions.
- Follow up to the Durban Conference resulted in the National Plan of Action and the NPA Against Discrimination

- Hierarchy of Rights enshrined in International Instruments: CRC, CEDAW etc.
- Law 2479 of March 2006 established standards for the application of international standards. This enabled freedom in the judicial process and detention including requirement of a compulsory hearing prior to the decision for preventative custody.
- Trafficking: Law established to prevent and punish traffickers and to protect victims.
- National Law on Sexual and Reproductive Health
- Prepared a plan for the eradication of child labour and corporal punishment that has been put before legislative congregates for approval.
- National Plan of Action Against Discrimination: **Challenges and Limitations. Argentina acknowledged that there is still reason to be concerned with the situation of human rights in Argentina, despite the achievements made.**

Challenges:

- Impotence of public policy making in Argentina
 - Limitations of the Truth and Justice Program
 - Impunity still in operation: for example the case of Julio Lopez and the President has acknowledged in writing this problem.
 - Dismantling of Economic, Social and Cultural Rights in the 1990s such as deterioration in labour relations and economic policies and labour relations.
- Weakening of the state.**

Non-Legal measures to improve human rights

- National Food Security Plan: addressed to families with social disadvantages
- Family Plan: including promoting the protection of adults and the integration of disabled persons into society including providing equality of opportunity.
- **Prison:** Psychological training of prison staff and a social development within the penal system, for example free visits for families of detainees when they live far from their relative who is detained.
- National Council of Ministers provided competitions to fill judicial vacancies through a legal selective basis that gives priority to active or retired judges: prevent corruption.
- In January 2007 created the National Accountability and Assistance Plan for victims of state terrorism, provided on a holistic basis and protects them and it is also for the purpose of evaluating cases and provides mental health assistance to victims throughout Argentina.
- Establishment of a National Protection Program for children who are victims of Trafficking and to prevent the abduction of children.
- Supports initiatives including the distribution of anti-contraceptive devices and community organizations that provide this support, particularly in the female prison environment.

Interactive Dialogue

32 States took the floor:

21 Member States: Brazil, Cameroon, Slovenia, Azerbaijan, Russian Federation, Guatemala, Mexico, China, Netherlands, France, Malaysia, Canada, Chile, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Egypt, Nigeria, Switzerland, Germany, Italy

11 Non-Member States: Austria, Ecuador, Colombia, Peru, United States of America, Venezuela (Bolivarian Republic of), Syrian Arab Republic, Norway, Sweden, Republic of Korea, Algeria

Questions and issues raised by States and answered by Argentina:

Truth and Reconciliation Tribunal

Steps taken to combat impunity during the period where crimes were committed by the military regime (Brazil)

Response by the delegation: Will be ratifying the Resolution on the Protection of all persons from Enforced Disappearances and has recognized the competence of the Committee on Enforced Disappearances.

Torture

Status of the draft law implementing OP CAT (Mexico and UK)

*Response by the delegation: **Not dealt with***

Trafficking

Strategies to combat trafficking of persons: particularly children and their forced labour (Germany)

*Response by the delegation: **Not dealt with.***

Discrimination

Sexual minorities equal treatment (Germany), More detail to encourage an inter-religious dialogue (Russian Federation), progress made to prevent discrimination and parallels with the national plan against discrimination with the national plan of action (Italy), prevent discrimination through the Migration Act 2004, support and assistance to victims of discrimination especially women and children (Republic of Korea), Implementation of the Convention on Racial Discrimination (Nigeria)

Response by the delegation: Delegations have presented questions that have been raised by interested parties in Argentina in situations where a specific person was asking for a pension because of the death of a person with the same sex. Case law varies in Argentina with how to deal with this situation and sexual preference. Supported the claims of these people. Problem considered in the National Plan of Action Against Discrimination and there is a great deal of activity going on in this area.

Racism

Incitement to racial hatred noted by CERD (Azerbaijan), implementation of CERD (Nigeria)

*Response by the delegation: **Not dealt with.***

Migrants

Program regularising the status of migrants: difficulties and challenges with implementation (Brazil) efforts to deal with migration (Mexico), measures to promote working conditions (France)

Response by the delegation: established law concerning immigration and this is a completely different system than the one which existed under military dictatorship of the former regime. There is a general law regarding asylum seekers which conforms to the highest standard of refugee law.

Women

Death due to illegal abortions, lack of medical care, contraception put in place (Germany), implementing the recommendations of CEDAW (Norway), rights of

women including political participation and violence against women National Plan (Chile and Ukraine)

*Response by the delegation: **Not dealt with.***

Education

Human Rights Education (Peru)

*Response by the delegation: **Not dealt with.***

Prison

Lack of hygiene, appropriate food and medical care (Azerbaijan), periods in detention in line with the law (Germany), relationship between prison systems and the ombudsman (Guatemala), Setting up sectorial population in prison system (Guatemala), adopt a register for detained persons (Peru) measures taken to address poor prison situation (Norway)

Response by the delegation: Dealt with under recommendations.

Children

Juvenile justice system (Mexico), Information on the Defencary (Defender) on the rights of boys and girls and adolescents (Mexico) progress with law concerning children and adolescents (Italy)

Response by the delegation: Dealt with under Recommendations.

Justice

Handling of new legal proceedings (Netherlands), additional resources to speed up cases (France), steps to bring military officials to justice (USA), crimes committed be dealt with under fair trial (Switzerland), cooperation between Ministry of Justice and the Ombudsman (Ukraine)

Response by the delegation: Dealt with under Recommendations.

Co-operation and Dialogue

Civil Society being involved in the process when it comes to discrimination themes in National Plan of Action (Columbia), guaranteeing Human Rights standards within their constitutional hierarchy (Peru), sharing of best practices (Syrian Arab Republic)

*Response by the delegation: **Not dealt with.***

Indigenous People

How to ensure the rights of indigenous people (Russian Federation), status of indigenous people (Mexico) safeguarding indigenous women living under the poverty line (China), protection of indigenous people (Nigeria)

Response by the delegation: Dealt with under Recommendations.

Implementation

Encourage implementation of CEDAW and CRC recommendations and bring national legislation (Cameroon),

Response by the delegation: Dealt with under Recommendations.

Human Rights Defenders

Information about measures protecting human rights defenders (Ecuador)

*Response by the delegation: **Not dealt with.***

Millennium Development Goals

Steps taken to implement such as National Food Security Plan (Malaysia)

*Response by the delegation: **Not dealt with.***

Impunity

Steps to protect witnesses from persecution (Canada and Switzerland), impunity versus amnesty in fragile situations (Egypt)

Response by the delegation: Society has asked for a hard hand when it comes to dealing with torture and acts of violence by state officials, cases brought against them that have been successful. Argentina acknowledged a general rule on this has not been possible to achieve at this stage.

Development

National Plan regarding food security and employment: information and measures to implement (Bolivarian Republic of Venezuela)

*Response by the delegation: **Not dealt with.***

Recommendations submitted by States:

Torture

Austria recommended that corporal punishment in schools be prevented by law.

Netherlands recommend implementing OP CAT into national mechanisms as soon as possible.

Response by the delegation: training of the security and armed forces on human rights, thanked the delegations for their questions regarding this. NGOs have an influence on educating the federal police, security forces and working on programs to assist civil society with this initiative.

Women's Rights

Slovenia recommend including a gender perspective in the follow up process to this review in a systematic and continuous way.

Canada recommended there be adequate mechanisms for women who are victims of workplace sexual violence and rape and the persons responsible be prosecuted according to CEDAW recommendations.

UK recommend steps to address discrimination against women including minority and indigenous women.

Response by the delegation: Dealt with largely under Migrant and Indigenous Rights.

Millennium Development Goals (MDGs)

Cameroon encourages the implementation of the MDGs

*Response by the delegation: **Not dealt with.***

Implementation

Cameroon encouraged Argentina to bring their national and provincial legislation in line with their ratified international instruments.

Algeria recommended continuing efforts to succeed to international commitments signed.

Mexico recommended the integration of the recommendation of the UPR into their human rights Plan Of Action.

Response by the delegation: Argentina follows in particular the 1984 Vienna Declaration on Human Rights Obligations and also the conditions of the 1951 Geneva Conventions in implementing their human rights obligations. Argentina stated that it could not provide information about the application of HR throughout its national territory including violence in other areas as the area of the Falkland Islands is the subject of disputed sovereignty with the UK.

Children

Slovenia recommends the penal system be compliant with the CRC recommendations and the Beijing Rules. Also noted for the recommendation lack of distinction between children and non-children being detained and believe this to be in conflict with the law. Recommend that life imprisonment for persons under 18 be prohibited in light of Article 37a of the CRC.

Italy recommends bringing their legislation in line with the principles of protection of children and women outlined in the CRC and CEDAW. Also recommends a legal definition of children.

Response by the delegation: Their 2005 Children Law is based on a National Plan of Action relating to girls, boys and adolescents and concerns the implementation of the CRC. Laws created which oblige persons who have knowledge of violence against children to report this to the police.

Indigenous People

Republic of Korea recommend Argentina take steps to fully realise the rights of indigenous people especially in light of civil service and public institutions.

Response by the delegation: Trend emerging regarding the rights of indigenous peoples to land, culture. Census helps provide and guarantee the rights of indigenous peoples in Argentina.

Impunity

Germany recommend the Working Group comment in the national report on the fight by Judges, prosecutors and witnesses to fight impunity of crimes committed by the former military.

Sweden recommends there be no impunity of officials who commit acts of torture

Response by the delegation: Judicial Management of court cases and there are more than 50 cases currently within the court system pending and more than 200 people have been convicted.

Access to Justice

Ukraine recommend level of cooperation between the penitentiary and judiciary and guarantee that the legislation in the country will provide the right of access of detainees to a lawyer immediately after detention.

Response by the delegation: Problem still exists between the national and provincial level in improving access to justice: there is a need to develop a law that will resolve this problem and Argentina is working towards it. Undertaking investigations of procedural durations when cases are brought before local and supreme courts with an aim of remedying the defects of access to justice.

Development

Cameroon encouraged Argentina to improve their efforts to achieve the Millennium Development Goals.

*Response by the delegation: **Not dealt with.***

Discrimination

Algeria recommended information on measures to curb discrimination on the basis of religion or belief and to pursue efforts to counter discrimination in whatever form in preparation of: Durban Declaration implementation, Durban Review Conference and the ad hoc committee on standards and norms.

*Response by the delegation: Advisory Council created to deal with situations of discrimination, especially against indigenous persons. There has been a problem with dealing with discrimination when the legislation itself is complete but the **implementation** of the legislation is not as 'exemplary', these problems 'cannot be solved overnight'.*

Prison

Germany recommends Argentina deal with overcrowding of prisons and use unrestrictive preventative protection.

Canada recommend improving prison conditions for inmates and conditions when in custody.

Response by the delegation: Program involving 90 people contributing to the improvement of prison conditions.

States that made solely welcoming statements

Uruguay asked no questions and gave solely a welcoming statement and focused on Argentina's Human Rights achievements.

Human Rights mentioned during the review but on which Argentina did not give a response:

Questions/Issues: Torture, Trafficking, Racism, Women, Education.

Recommendations: Development and Millennium Development Goals.

Speaking Times:

Argentina spoke for approximately 75 minutes. Member States were given 3 minutes to speak and Non-Member States were given 2 minutes.

Disclaimer: this summary is by no means exhaustive as it is just an indication of the discussion that took place during the review and should therefore not be quoted as an official document of the UPR process.