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## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

### **Argentina**

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## I. Methodology and the consultation process

1. This report provides an assessment of the country's fulfilment of its international obligations and of the public policies that it has applied in order to implement the recommendations that were made and to honour the commitments that it voluntarily assumed in the course of its first universal periodic review. The report offers a concise overview of the actions undertaken to ensure that human rights are fully respected in Argentine society.

2. The report covers the progress made in implementing those recommendations, as well as the changes that have occurred and the challenges encountered, during the period 2008–2012. It was prepared primarily on the basis of input provided by the various national agencies that were asked to participate in its formulation.

3. The Human Rights Secretariat<sup>1</sup> was tasked with coordinating the drafting of this report in cooperation with the Directorate-General for Human Rights of the Ministry of Foreign Affairs, which convened a number of meetings with the national agencies specializing in each subject area as part of the consultation and report-preparation process.<sup>2</sup>

## II. Changes in the normative and institutional framework

4. **Normative framework:** The most important laws passed in 2008–2012 include:
- Act No. 26.364: Prevention and punishment of human trafficking and victim assistance
  - Act No. 26.485: Comprehensive protection as a means of preventing and eradicating violence against women within the scope of interpersonal relationships and of punishing the perpetrators of such violence
  - Act No. 26.374: Reduction of the length of criminal proceedings
  - Act No. 26.376: Establishment of a speedier and more flexible procedure for assigning substitute judges
  - Act No. 26.417: Pension rate adjustments
  - Act No. 26.522: Audiovisual communications services
  - Act No. 26.548: Functions and organizational position of the National Genetic Data Bank
  - Act No. 26.549: Amendment of the Criminal Code (recovery of DNA)
  - Act No. 26.550: Access to justice for victims in proceedings dealing with crimes against humanity
  - Act No. 26.551: Decriminalization of libel and slander in cases involving the public interest
  - Act No. 26.738: Repeal of the provision made for victim-initiated pardons (repeal of article 132 of the Criminal Code)
  - Act No. 26.618: Equal-rights civil marriage
  - Act No. 26.653: Web page accessibility for all persons with disabilities
  - Act No. 26.657: Right to mental health protection
  - Act No. 26.682: Prepaid medicine

- Act No. 26.737: Regime for the protection of rural property in the public domain
  - Act No. 26.742: Death with dignity
  - Act No. 26.705: Amendment of article 63 of the Criminal Code on sexual abuse/minors/prescription: When the victim is a minor, the period that must elapse before the statute of limitations comes into effect will start from midnight on the day that the victim reaches the age of majority
  - Act No. 26.743: Gender identity and comprehensive health care for transgender persons
  - Decree No. 1602/09: Introduction of a non-contributory per-child allowance as part of the social protection system
  - Decree No. 459/10: “Conectar Igualdad” (“hook up with equality”) netbook distribution programme
  - Decree No. 696/2010: National Human Rights Plan – National Programme
  - Decree No. 616/2010: Implementing regulations for Migration Act No. 25.871
  - Decree No. 936/11: Prohibition of the publication of sexual-service advertisements in graphic media
5. **Institutional framework:** New agencies and initiatives for the promotion of human rights have been established in the different branches of government:
- (a) **Executive:**
    - Ministry of Science, Technology and Productive Innovation
    - Trafficking Victims Rescue and Assistance Office
    - Dr. Fernando Ulloa Assistance Centre for Victims of Human Rights Violations
    - National Human Rights Plan – National Programme
    - National Legal Assistance Programme for Persons with Disabilities
    - Creation of the Ministry of Security (previously under the aegis of the Ministry of Justice and Human Rights) and its National Human Rights Directorate
    - Indigenous Rights Directorate
  - (b) **Judicial:**
    - Office of the Supreme Court
    - Domestic Violence Office of the Supreme Court
    - Creation of the Superintendency of Crimes Against Humanity of the Supreme Court
  - (c) **Inter-Branch Commission:** Made up of representatives of the executive, legislative and judicial branches and the Office of the Attorney-General. The Commission is responsible for resolving difficulties encountered in the prosecution of cases involving human rights violations.

### **III. The overall human rights situation**

#### **A. International instruments (recommendation 21)**

6. The country's foreign policy, especially since 2003, has focused on strengthening international law, cooperation, peace and security, democracy, respect for human rights and the promotion of human rights. This has been established as a policy of State. Argentina demonstrated its commitment to the protection of human rights in September 2008 when it ratified the second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto. In so doing, it implemented recommendation No. 21 of the universal periodic review.<sup>3</sup>

7. In addition, in October 2011 Argentina ratified the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and on 25 July 2012 it will sign the third Optional Protocol to the Convention on the Rights of the Child on a communications procedure. Thus, apart from this last-named optional protocol, which has only recently been adopted, Argentina has completed its ratification of all the international human rights instruments.

#### **B. Cooperation with international human rights mechanisms**

8. Since 2002, Argentina has been extending an open standing invitation to all special procedures of what is now the Human Rights Council. The country has been visited by various rapporteurs and working groups involved in the promotion and protection of human rights. Argentina firmly believes in the need to continue to strengthen the universal system for the promotion and protection of human rights. It therefore does its part by implementing international standards within the country and supporting initiatives for renewing existing mandates and creating others that are vitally needed in order to respond to developments within the international community.

#### **C. Voluntary commitments with regard to international cooperation**

9. During the period covered by this report, Argentina has presented periodic reports to treaty bodies on numerous occasions. It has also recognized the competence of a majority of the committees to consider petitions from persons who claim to have been victims of violations of their rights under those instruments.<sup>4</sup> In fulfilment of the commitment voluntarily assumed during the country's first review,<sup>5</sup> in June 2008 Argentina recognized the competence of the Committee on Enforced Disappearances, and in February 2012 it submitted a bill to the legislature whereby the Government would recognize the competence of the Committee on Migrant Workers.<sup>6</sup> That bill is currently being considered in the Chamber of Deputies. It was passed by the Senate in July 2012.

#### **D. Labour and social security**

10. In 2011, Argentina recorded the highest employment rate in its history. During the past four years, the following advances have been made with regard to social security:

- Universal coverage of non-contributory pension benefits for adults over 70 years of age who receive no other type of pension or income from another source and who live in households that are under the poverty line.

- Increasing coverage: Between 2003 and 2010, coverage of pension benefits for the population eligible for retirement rose from 3,185,000 to 5,585,000 beneficiaries. In 2003, approximately 100,000 non-contributory pensions were being paid out; now, that number has climbed to 1 million.<sup>7</sup>

## **E. Housing**

11. The Argentine Bicentennial Single-Family Housing Credit Programme (PRO.CRE.AR) was launched in June 2012. Under this programme, a total of 100,000 dwellings are to be built over a period of four years. The loans will be for up to 350,000 pesos, with terms of from 20 to 30 years. The interest rate charged for these loans will be pegged to household income.

## **F. Health**

12. The State's efforts in this area focus on ensuring that all members of the population can exercise their right to health and on guaranteeing access for all by working on a collective basis to mount promotion and prevention initiatives, provide financing and training, and develop the corresponding legal framework. Work in this area has included:

- The prescription of generic medicines in order to lower costs.
- Expansion of coverage from 40 per cent to 70 per cent for the medicines required to treat the most common chronic diseases.
- Free medical coverage for pregnant women and for children up to the age of 6.
- Provision of hormone-based contraceptives, intra-uterine devices (IUDs) and condoms free of charge.
- The Prepaid Health-Care Plan Act governs the benefits of 4.5 million users. These private health-care plans may not turn away persons with pre-existing health conditions or older persons.
- Efforts to stop the spread of the HIV virus were stepped up in 2008–2011; an additional 2,533 condom-distribution centres were set up and expenditure on antiretroviral drugs was increased by 36 per cent.

## **G. Education, science and technology**

13. A total of 1,351 schools have been built since 2003. Funding for education has also risen: the 2011 budget allocation amounted to \$29,287,000,000 (a 38 per cent increase over the preceding year). Other measures include: the creation of the "Conectar Igualdad" ("hook up with equality") programme, which has distributed 2 million netbooks to secondary-school students and teachers throughout the country; the repatriation of 850 scientists under the R@ICES ("roots") programme; and the creation of the Canal Encuentro (the "encounter channel") under the Ministry of Education, whose objectives are to promote access to knowledge for the entire population of Argentina, provide schools with high-quality televised and multimedia content, and offer innovative tools for facilitating and upgrading teaching and learning processes.

## **H. Water**

14. Public investment in sewerage and drinking-water systems climbed from \$3 million in 2003 to \$1.4 billion in 2010.

15. The Reconquista River Basin is being reclaimed under an international technical cooperation agreement with the Inter-American Development Bank (IDB). Under this agreement, a new investment and development strategy has been launched that calls for the extension of existing federal, provincial and municipal waterworks. The objective is to bring socio-environmental conditions back into line with existing standards for the approximately 4.7 million inhabitants of the 18 municipalities in this river basin.

## **I. The environment**

16. A number of environmental laws have been passed on such subjects as investment in cultivated forests,<sup>8</sup> baseline budgets for the glacial and periglacial environmental protection system,<sup>9</sup> and wildlife protection and conservation.<sup>10</sup>

## **J. Culture**

17. The Federal Ministry of Planning, Investment and Services has developed the National Cultural Equality Plan,<sup>11</sup> which is based on the integration of the public communications policies being applied by the Ministry and the Secretariat for Culture. The main objectives of this plan include the creation of the technological conditions and infrastructure needed to ensure equality of opportunity in terms of the production and dissemination of cultural goods and services and access to them at the federal level on an inclusive basis.

## **K. Security and defence**

18. Important advances include: the declassification and publication of the Rattenbach report, which arrives at an assessment as to where political and strategic military responsibilities lie with regard to the conflict in the South Atlantic; the issuance of implementing regulations for the Defence Act; the adoption of a cooperative regional approach with the creation of the South American Defence Council; enhanced human rights training for Argentine participants in United Nations peacekeeping operations; and improved gender-based training as provided for in the national plan for implementing Security Council resolution 1325 (2000) on women and peace and security.

19. In March 2012, Argentina requested the International Red Cross to begin taking the necessary steps to search for and identify fallen soldiers who were buried in unmarked graves in the Malvinas, South Georgia and Sandwich Islands during the 1982 armed conflict between the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland.

## **L. The rights of specific groups**

### **1. Women: political participation**

20. Argentina and Brazil are two of the South American countries in which the Head of State is a woman. According to the map entitled "Women in Politics: 2008" presented by the United Nations and the Inter-Parliamentary Union, which depicts the situation as it

stood following the parliamentary elections of 2007, Argentina ranks fourth in the world and first in South America in terms of the number of women who hold political office. As of 2009, 34 per cent of the standing and ad hoc committees in the lower house of parliament were headed by women. These figures are higher than they formerly were and reflect a continuing upward trend in this respect over recent decades. As of December 2011, women presided over 19 of the 45 standing committees (42.2 per cent) in the Chamber of Deputies. The same trend can be observed in the Senate.

21. Out of the total 1,153 seats in the provincial legislatures in 2011, women held 27.15 per cent of them (313 seats). As of November 2011, women held 36.76 of the seats in the Chamber of Deputies and 38.88 per cent of the seats in the Senate.

## **2. Persons with disabilities**

22. Argentina takes a cross-cutting approach to the implementation of policies and programmes focusing on the full inclusion of persons with disabilities. Actions taken in this realm are guided by national and international standards, including the Convention on the Rights of Persons with Disabilities, which was adopted by Act No. 26.378 of 2008. In September 2010, Argentina submitted its country report to the corresponding United Nations treaty body in a public session.<sup>12</sup>

23. At the third session of the Conference of States Parties to the Convention on the Rights of Persons with Disabilities, held at the United Nations in September 2010, Argentina presented a preliminary set of indicators relating to disability for use with reference to the Millennium Development Goals. Within the framework of the Organization of American States, Argentina has taken part in international technical cooperation activities with Haiti dealing with community-based rehabilitation and universal design. In 2010 and 2011, it conducted a public information campaign<sup>13</sup> concerning the rights set forth in Act No. 26.378 in order to raise the general public's awareness of those rights. The specific objective was to disseminate information about State action in the three areas of employment, education and accessibility.

24. There are various family allowances for persons with disabilities: an allowance for families who have a child with disabilities; an allowance in the case of children born with Down's syndrome; yearly allowances for school expenses for children with disabilities; and an allowance for spouses with disabilities. The Government supports aspiring athletes with disabilities through the various sports federations by providing grants, training facilities, lodging during meets and sports competitions, and assistance for participation in international meets.

25. Act No. 26.522 provides that cable television shows and news, educational, cultural and general-interest programmes produced in Argentina must incorporate additional communications mechanisms (hidden subtitles), sign language interpretations and audio descriptions of the show so that persons with disabilities have access to them.

26. According to census data from December 2011, 12.9 per cent of the total population living in private homes have some type of permanent physical and/or mental difficulty or limitation. These difficulties or limitations included visual, hearing, cognitive and motor impairments.

27. The National Justice System Assistance Programme for Persons with Disabilities has been established to fulfil the State party's obligations under the Convention and its Optional Protocol, particularly the obligation to ensure effective access to justice for persons with disabilities. Its objectives include: providing guidance, technical assistance and referrals; preparing manuals and guides; developing action protocols; and monitoring and acting on the behalf of persons with disabilities who are incarcerated.

## **IV. Achievements in the implementation of the recommendations**

### **A. Countering discrimination towards the most vulnerable sectors (recommendations 1 and 2)**

28. The National Institute to Combat Discrimination, Xenophobia and Racism (INADI) works in five main subject areas: gender, education, health, interculturality and disabilities. Within each area, there are a number of programmes that focus on different issues. INADI also has cross-cutting activities dealing with such topics as sexual diversity, older adults, good practices in public employment and many others.<sup>14</sup> In addition, the Institute has an office that assists and advises people who are subject to discrimination. This office (the Assistance and Advisory Directorate) processes complaints regarding xenophobic, discriminatory or racist behaviour and provides free legal aid to victims.

29. In 2008–2012, INADI devoted special effort to strengthening its management structure at the federal level and set up offices in each of the country's 23 provinces and the Autonomous City of Buenos Aires.

30. Steps have also been taken to strengthen the implementation of the following programmes: State Consensus on Combating Gender Discrimination, Employment Parity for Women and Men, the MEGA Pilot Corporate Gender Equity Certification Programme,<sup>15</sup> Teacher Awareness for the Non-Discriminatory Implementation of Comprehensive Sex Education, Children and Disability, the Youth Anti-Discrimination Network and the Mobile Playground for Persons with General Developmental Disabilities.

31. Since March 2010, INADI has been working with the General Labour Federation (CGT) on a campaign aimed at raising awareness and disseminating information about the laws designed to uphold the rights of persons with disabilities.

32. The Institute also has projects that deal with migrants and refugees, older adults, religious diversity and ideological diversity, as well as cross-cutting programmes such as "Internet for All" and "Good Practices in Public Employment". In addition, it has set up the Football Monitoring Centre, whose objective is to eliminate discriminatory conduct in this sport.

#### **1. Women**

33. Women's role in economic affairs in Argentina has increased considerably. They have high employment and activity rates and are clearly taking on a strong leadership role in the realm of social economics and in microenterprises and cooperatives. As of the end of 2010, Argentine women made up 41.9 per cent of the economically active population and had an activity rate of 46.3 per cent and an employment rate of 42.2 per cent. Of the population of employed women, 8.9 per cent were in professional posts, 27.9 per cent were in technical positions, 42.8 per cent were in skilled operational jobs and 20.3 per cent were in unskilled positions.

34. Although many of the courses of action that are being pursued in an effort to eliminate discrimination against women will be described in this report, the Indigenous Women's Organizational Capacity-Building Project warrants special mention. This project is in line with the National Anti-Discrimination Plan and the associated recommendations and is currently being coordinated by an indigenous woman who is trained in indigenous law. As part of this plan, a number of workshops and training sessions on indigenous law, gender issues and non-discrimination are being held for members of indigenous groups, NGOs and national and provincial civil servants.



35. A law on trafficking in persons has been passed, and the implementing regulations have been issued for Act No. 26.485, which provides for comprehensive protection as a means of preventing and eradicating violence against women and for the punishment of the perpetrators of such violence.

36. The Ministry of Security has issued a number of directives designed to do away with practices that discriminate against women. These directives have dealt with such issues as: a review of women's and men's entry into the police and security forces, their length of service and promotions, the lifting of restrictions on the entry of pregnant women and women who are breastfeeding, the adoption of minimum standards for maternity leave and leave for breastfeeding mothers, and the suspension of physical activity.<sup>16</sup> Guidelines have also been issued regarding the treatment, registration and detention of persons in a manner that respects their adopted or self-perceived gender identity.<sup>17</sup>

37. The Commission on Gender Affairs of the Public Defence Service works to ensure that a gender perspective is mainstreamed into defence services, to facilitate women's access to justice and to mount a stronger defence of their rights, particularly in criminal cases involving women in conflict with the law or women victims of violence. Since 2009 a seminar (at which attendance is mandatory) has been held each month on women and the law in order to provide training to the Service's employees and officials regarding gender issues and women's human rights.

38. On 21 March 2012, the Chamber of Deputies passed Act No. 26.738, which repealed a provision in the Criminal Code under which perpetrators of offences against a person's sexual integrity could be pardoned if the victim requested the court to do so, provided that the court found that the victim's request was made "freely" and that the victim was not pressured in any way. This provision was abrogated on the grounds that it was discriminatory, since there is no true equality between the victim and the attacker in such cases.

39. On the subject of violence inflicted upon women and girls in the course of armed conflicts, Argentina supported the adoption of Security Council resolution 1325 (2000) on women and peace and security, together with other related resolutions. The Government's draft national plan for the implementation of resolution 1325 is to be adopted once the eight ministries concerned have signed off on it.

## **2. Children and adolescents**

40. Argentina took a step forward in respect to the recognition of the right to an identity when it promulgated Decree No. 278 of 2011, which provides for the establishment of an administrative system for registering the births of infants and children up to the age of 12. It also sets out a specific policy tailored to members of indigenous communities.

41. In 2011 a programme was implemented to build local capacity for ensuring that children and adolescents have full access to justice. This programme, which was cofunded by the United Nations Children's Fund (UNICEF) and the Chief Public Defender's Office, includes a specific component geared to indigenous children and adolescents. As part of this component, rights advocacy work has been done on the ground in two indigenous communities in Chaco Province.

## **3. Sexual orientation**

42. Measures taken to address the situation of other groups that are frequently the target of discriminatory practices include the steps taken to eliminate the legal inequalities to which some people are subject as a result of their sexual orientation. On the basis of two INADI reports, the National Social Security Administration issued a decision recognizing the pension rights of same-sex partners. In July 2010, an amendment to the Civil Code (Act

No. 26.618) was passed that provides for the recognition of equality in marriage for all persons, regardless of their sexual orientation, and that permits same-sex marriages and allows for the possibility of adoption in such cases.

43. An important step forward in the expansion of the rights of groups that have historically been discriminated against because of their members' sexual orientation was taken with the promulgation, by Decree No. 773/12, of Gender Identity Act No. 26.743. This law provides that all people have the right to recognition of their gender identity, to unhindered personal development in keeping with their gender identity, to be treated in accordance with their gender identity and, in particular, to be identified on identity documents with first name(s), a picture and an indication of their sex that is in keeping with their gender identity.

44. Under the new law, court authorization is not required either for the modification of identity information or for medical interventions; the informed consent of the person concerned is sufficient. The law permits total and partial surgical interventions and/or hormone treatments for persons over 18 years of age for the purpose of adapting their body to their self-perceived identity. All health care is covered by the Compulsory Medical Plan (PMO).

45. Along the same lines, the National Programme for Sexual Health and Responsible Parenthood, which was established by Act No. 25.673, guarantees the right to express one's sexual preference without hindrance and without being subjected to any sort of discrimination or violence. As part of this programme, a task force has been working since October 2010 to define and promote public policies aimed at ensuring genuine access to sexual and reproductive health services for the lesbian, gay, transgender and bisexual population.

## **B. Migrants: trafficking in persons (recommendation 3)**

46. In May 2010, by Decree No. 616/2010, the executive issued the implementing regulations for Migration Act No. 25.871.<sup>18</sup> This law, which was framed on the basis of a consensus reached by different governmental and non-governmental sectors, reflects the country's commitment to fully upholding the human rights of migrants and their families. It also provides readily accessible procedures that migrants can follow in order to regularize their status so that they can become fully integrated into their host society.

47. Argentina has expressly recognized the importance of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in regional and international forums dealing with migration issues. Both at the Seventh South American Conference on Migration and within MERCOSUR, Argentina has reaffirmed its commitment and has called for the ratification of this and other instruments aimed at upholding the rights of migrant workers.<sup>19</sup>

48. Act No. 26.364 of 2008 defines the federal offence of trafficking in persons and recognizes the following rights of victims: to be informed of their rights in a language which they understand; to suitable lodging, coverage of subsistence expenses, meals and personal hygiene facilities; to psychological, medical and legal services free of charge; to have the benefit of special protective measures when giving testimony; to measures that will guarantee their physical and psychological integrity; and to remain in the country in accordance with existing legislation.

49. The Ministry of Justice and Human Rights has a number of programmes designed to protect the rights of victims of human trafficking.<sup>20</sup>

50. In order to prevent human trafficking for purposes of sexual exploitation and to make headway in eliminating discrimination against women, Decree No. 936 of 2011 provides for the creation of the Sexual Commerce Advertisements Monitoring Office, which is authorized to oversee the graphic media and impose penalties for violations.

51. Assisting victims and providing them with care after they testify is the responsibility of the Unit for the Prevention of the Sexual Exploitation of Children and Human Trafficking of the Secretariat for Children, Adolescents and the Family (SENNAF) of the Ministry for Social Development. SENNAF also provides legal and economic aid to foreign trafficking victims in order to help them settle in Argentina or return to their country of origin, as they choose.

52. Most of the provinces in the country have set up teams to assist trafficking victims. These teams are usually attached to the provinces' human rights secretariats, which also work to rescue and identify trafficking victims and to provide them with assistance and follow-up services. The Federal Council for Children, Adolescents and the Family has a victim assistance protocol, and in 2012 the provinces signed on to the SENNAF guidelines for the coordination of efforts to assist trafficking victims.

53. The Ministry of Security has adopted various crime prevention measures to combat human trafficking, including the preparation of guidelines for the registration of complaints at stations of the Argentine Federal Police Force; the adoption of a protocol for an early warning system designed to detect trafficking at border crossings; the dissemination of posters, banners and pamphlets on the problem; and the publicization of a free hotline that people can use to report trafficking at border crossings, airports and long-distance bus terminals.

54. The Kidnappings for Ransom and Human Trafficking Unit (UFASE) of the Public Prosecution Service provides assistance to prosecutors handling such cases throughout the country.<sup>21</sup>

### **C. Domestic violence (recommendation 17)<sup>22</sup>**

55. Act No. 26.485, which provides for comprehensive protection as a means of preventing and eradicating violence against women and of punishing the perpetrators of such violence, was passed in 2009. This law represents a paradigm shift in this area, as it addresses the issue of gender violence from a wide-ranging perspective that goes beyond the bounds of domestic violence in order to provide a comprehensive response to the problem. Its implementing regulations were promulgated in Decree No. 1011/10.

56. This law establishes the principle that it is the responsibility of the State not only to assist, protect and ensure justice for women victims of domestic violence but also to address the preventive, educational, social, judicial and assistance-related considerations associated with all types and forms of violence. It also provides for the formulation and implementation of a national action plan for preventing and eradicating gender violence which is to be headed by the National Women's Council and in which all Government agencies and offices are to take part.

57. A bill that would incorporate the offence of femicide into the Criminal Code has been passed by the Chamber of Deputies.

58. The Domestic Violence Office has been open 24 hours a day, 7 days a week, since 2008, and the Women's Office has been open since 2009. Both of these offices are attached to the Supreme Court. The Domestic Violence Office receives and assists women victims of violence, helps them to lodge complaints, and provides them with guidance and support,

while the Women's Office provides training to staff of the judicial and security systems and of other ministries about the issue.

59. In February 2011, a national coordinating committee was set up within the Ministry of Justice and Human Rights. This committee's work focuses on the formulation of draft legislation on the penalties to be imposed in cases of gender violence and on coordinating the work being done to develop reparative measures for victims.

60. The lines of action to be covered by the National Plan for the Prevention and Eradication of Violence against Women and for the Punishment of Aggressors have been established. This plan is to be carried out by the National Women's Council along with other Government agencies.

61. A cooperation agreement has been signed by the Human Rights Secretariat of the Ministry of Justice and Human Rights and by the National Social Policy Coordinating Council. Under this agreement the Secretariat commits to act as a plaintiff in cases involving gender-based hate crimes resulting in the murder of a woman and in cases in which a woman's life is put at risk as a result of gender violence.

62. Some of the main activities<sup>23</sup> of the National Women's Council have been the following:

- Establishment of the Council's Violence against Women Monitoring Centre, whose objective is to compile, register, process and disseminate information on this subject on a regular, systematic basis
- Awareness-raising workshops for civil servants and staff of NGOs<sup>24</sup>
- Establishment and strengthening of gender affairs secretariats in trade unions in 15 provinces (21 unions)

63. The Ministry of Security has provided training for the staff of police and security forces in how to deal with victims of domestic and/or sexual violence and has set aside special areas in police stations for them. In 2011, the Chief Public Defender's Office worked with the Ministry of Security to provide training to more than 700 agents of the Argentine Federal Police Force on access to justice for persons in vulnerable situations. (Data provided by the Domestic Violence Office for Buenos Aires are given in the annex.)

#### **D. Trials related to human rights violations committed during the period of State terrorism (recommendations 4 and 5)**

64. Argentina continues to work to uncover what occurred during the period of State terrorism that transpired during the last military dictatorship. Its commitment to this task is reflected in the State's implementation of its policy in this regard, which is based on the time-honoured pillars of the human rights movement in Argentina: remembrance, truth and justice.

##### **1. Measures to ensure speedy trials**

65. The three branches of government have made substantial inroads in the investigation, trial and punishment of persons who committed crimes against humanity during the last military dictatorship.

66. As of June 2012, charges had been brought against 875 persons, with 482 of them having been brought to trial to date. Of that number, 287 have been convicted. There are 17 trials going on at the present time, and 5 more are on the docket.<sup>25</sup>

67. The judiciary has convened an inter-branch commission that is made up of representatives of the Public Prosecution Service, the Council of the Judiciary, Congress and the Ministry of Justice and Human Rights to address the obstacles that have hampered the due progress of these proceedings and hindered efforts to expedite them.

68. The Supreme Court has created the Crimes Against Humanity Oversight Unit<sup>26</sup> to monitor pending cases, keep track of the progress of the proceedings and look into any operational difficulties that may be slowing their progress.

69. The Public Prosecution Service has instructed prosecutors throughout the country to work to ensure that persons against whom formal charges have been brought are tried in court without delay. It has also decided that the prosecutors who conducted the preliminary investigations should take part in the oral trials in court. In addition, it has urged prosecutors to pinpoint the types of appeals that are slowing progress towards the initiation of the oral stage in the proceedings, to keep track of the amount of time required to rule on those appeals, and to lodge an objection to any manoeuvre on the part of defence attorneys that is clearly a delaying tactic aimed at preventing cases from going to trial.

70. The Human Rights Secretariat has acted as a plaintiff in 155 court cases.<sup>27</sup> The National Memory Archive also works to optimize the available resources and facilitate the processing of cases by providing information in digital form. The Ministry of Justice and Human Rights oversees the work of the Special Search Unit, which seeks to locate persons for which warrants have been issued (Act No. 26.375) and is authorized to offer monetary rewards to people who provide information, statements, documentation or any other crucial element that will assist it to arrest persons who are suspected of having committed crimes against humanity.

71. Act No. 26.374 has cut down on the length of proceedings by simplifying them and making them more efficient, while Act No. 26.376 has streamlined the procedure for designating alternate judges in instances when judges excuse themselves, are disqualified, are on sick leave, remove themselves from the bench or when any other circumstance arises that prevents the original judge from trying a case.

72. The National Human Rights Directorate of the Ministry of Security works in cooperation with judicial authorities and the Public Prosecution Service. For example: (a) It assists investigators in cases involving the abduction of children under 10 years of age, wrongful confinement of minors, falsification of public documents or suppression of identity;<sup>28</sup> (b) It has set up the Special Judicial Assistance Group to obtain DNA samples in cases involving the abduction of children and the suppression of identity;<sup>29</sup> (c) It has also established the Special Collections Group to handle documents having a historical or judicial value.<sup>30</sup>

## **2. Victim and witness protection system**

73. Under the national plan for the assistance of plaintiffs, victims and witnesses in cases of State terrorism,<sup>31</sup> support is provided to witnesses and interdisciplinary training is given to judicial officials.

74. A national network of persons in each of the provinces and the Autonomous City of Buenos Aires who are appointed by the Human Rights Secretariat underpins this plan. These persons provide assistance and support to victims. The National Directorate for the Protection of Witnesses and Persons under Investigation has provided advisory services regarding the design of programmes now being developed in Tucumán and Salta provinces and is working with the programmes now in operation in the provinces of Córdoba, Santa Fe and Buenos Aires.

75. In 2008 meetings were held by the Ministry of Justice and Human Rights, the Ministry of Foreign Affairs and Religion, the Chamber of Deputies and the United Nations Office on Drugs and Crime to discuss witness protection in Argentina and the associated challenges, good practices in the establishment of witness protection models, victim and witness protection and security and the role of civil society in victim and witness protection. A comparative analysis of national programmes was also undertaken.

76. As part of the implementation of the State's reparations policies, the Dr. Fernando Ulloa Centre for Victims of Human Rights Violations has been established.<sup>32</sup> The Centre assists victims of State terrorism and persons who are witnesses in trials dealing with crimes against humanity and/or victims of serious present-day human rights violations thought to have been committed by agents of the State. The Centre provides its services nationwide and has representatives in the provinces of Córdoba, Salta, Jujuy, Mendoza, Entre Ríos, Tucumán and Buenos Aires and in the City of Buenos Aires. To date, it has provided support to 519 people throughout the country and has furnished assistance and referrals to 240 people.

77. In October 2011, the Protocol for the Treatment of Victims and Witnesses during Judicial Proceedings was presented in the Supreme Court.

78. In addition, a national network has been set up by public health professionals who provide their knowledge and services in order to assist victims of State terrorism and other human rights violations.

## **E. Improvement of the prison system (recommendations 8, 9 and 10)**

### **1. Overcrowding (recommendation 8)**

79. Overcrowding in the country's prisons has been addressed by efforts to upgrade the federal prison system's infrastructure by building and creating new accommodations and by reorganizing the prison population using a targeted grouping system. The federal prison system houses approximately 15 per cent of the country's total prison population. According to figures compiled by the Federal Prison Service, it has a holding capacity of 11,037 and currently houses approximately 9,644 prisoners.

80. The Prison Infrastructure Plan calls for more sweeping changes in the design and construction of prisons with a view to creating contained treatment areas and more normal environments that look and are used in ways similar to non-prison environments. The system is structured so that inmates are engaged in organized activities for at least 10 hours per day, with areas provided for tutoring, and settings that are geared to each one of the different phases in correctional treatment. Act No. 26.695 establishes the right to a comprehensive, ongoing, quality education for all persons who are deprived of their liberty.

81. In 2011, Units 3 and 31 of Ezeiza and the North-Western Penitentiary I (NOA) in Salta Province were expanded, with holding capacities of 60, 136 and 480 inmates, respectively. Some projects to refurbish facilities and make them more liveable have already begun, while others have been put out to tender.<sup>33, 34</sup>

82. The projects that have been completed to date have improved and/or added facilities having a total holding capacity of 1,924, and new facilities for another 536 inmates are being built. The facilities for another 1,352 inmates have been improved in one way or another.

83. The First International Meeting on Prison Infrastructure was held in 2011 and was attended by authorities from the provinces and from neighbouring countries. Representatives at the meeting signed a letter of intent concerning the promotion of sound

prison designs and the construction of prison facilities in line with international and national standards.<sup>35</sup>

## 2. Prison violence

84. The Federal Prison Service is working to reduce prison violence. Programmes designed by the Ministry of Health have been implemented, and programmes on gender issues and issues faced by transgender persons and young adults have been carried out.

85. In Unit 31 of the Federal Prison Service, which houses women and mothers with children up to 4 years of age, regular meetings are held by prison staff, other technical teams and members of the Correctional and Social Sciences Comparative Studies Institute (INECIP) to discuss inmates' needs. This has proven to be a highly valuable experience that helps to reduce violence while promoting respect and responsible attitudes on the part of both prison staff and inmates.

86. A protocol on the prevention and resolution of violent situations in units housing young adults has been prepared by the Federal Prison Service, the Office of the Prison System Ombudsman, the Chief Public Defender's Office, representatives of different ministries, and NGOs such as the Legal and Social Research Centre (CELS).

## 3. Health

87. A framework cooperation and assistance agreement entitled "Justicia con Salud, Salud para Incluir" ("justice with health; health as a means of inclusion") has been signed by the Ministry of Justice and Human Rights and the Ministry of Health. This agreement, which provides for the implementation of health policies within the Federal Prison Service's custodial facilities, has been signed by the provincial governments as well.<sup>36</sup>

## 4. Incarceration of women

88. Act No. 24.660 on custodial sentences has been amended to allow for sentences of house arrest for women prisoners who have children under 5 years of age living with them. The impact of this provision is on the rise, with a year-on-year increase of 77.4 per cent in its application in 2011.

89. A programme is in operation that permits women inmates to meet with their children outside of prison facilities so that they can visit in an appropriate setting that will help them to preserve and consolidate their family relations, in accordance with article 8 of the Convention on the Rights of the Child.

90. In order to promote the implementation of policies on crime and prisons from a gender perspective, a publication entitled "Mujeres en Prisión: los alcances del castigo" ("women in prison: the ramifications of punishment") was exhibited at the 2011 Book Fair. This publication presents the findings of a study carried out by the Chief Public Defender's Office, the Office of the Prison System Ombudsman and CELS in order to inform the public about the conditions existing in federal women's prisons.

91. In May 2005, the Consultative Council for Prison Policies on Gender Issues<sup>37</sup> was established and a gender programme for the Federal Prison Population was approved.<sup>38</sup> The gender programme<sup>39</sup> was designed to establish suitable standards for the treatment of women inmates that are closely geared to their gender-related needs. The aim is to facilitate their return to society. The programme has been identified as an example of good practice by the Conference of Ministers of Justice of Ibero-American Countries.

**5. Register of detained persons (recommendation 9)**

92. A computerized register of persons who are being held in custody is being readied by the Ministry of Justice and Human Rights. All the country's criminal courts are required to enter all orders for pretrial detention or for other equivalent arrangements as provided for in the Codes of Criminal Procedure and all convictions and the corresponding sentences into the National Registry of Repeat Offenders<sup>40</sup> within five days of the definitive issuance of such rulings or convictions (art. 2 (b) and (i)). The country's prisons are required to enter all prisoner releases in the Registry as well.

**6. Cooperation between the prison system and judicial bodies (recommendation 10)**

93. A number of steps were taken in 2008–2012 to strengthen cooperation between the prison system and the judiciary. To this end, meetings were held between the Federal Prison Service and judicial authorities, particularly the National Court of Cassation in Criminal Matters and the Association of Magistrates.

94. Representatives of the Federal Prison Service also met with the Office of the Prison System Ombudsman in what has now become a new forum for dialogue.

95. At the request of the corresponding judicial authorities, representatives of the Office of the Under-Secretary for Prison Affairs of Argentina and the Federal Prison Service attend habeas corpus hearings held at the behest of detainees and the Office of the Prison System Ombudsman.<sup>41</sup>

96. Prison administrators, the Chief Public Defender's Office and the Public Bar Association are also in close contact with one another.

**F. Prevention of torture and punishment of perpetrators (recommendations 6 and 7)**

**1. National mechanism for the prevention of torture (recommendation 6)**

97. Argentina actively supported the adoption of the Optional Protocol to the Convention against Torture and was the first country in the Americas to ratify it. Government agencies<sup>42</sup> and various NGOs have been working to disseminate information about the Protocol at the provincial level.

98. Given the federal structure of the Government of Argentina, the national preventive mechanism is to be established by means of a national law. In September 2011, the Chamber of Deputies passed the draft Act on the Creation of a National System for the Prevention of Torture.<sup>43</sup>

99. The provinces of Chaco,<sup>44</sup> Río Negro<sup>45</sup> and Mendoza<sup>46</sup> have passed laws creating provincial mechanisms for the prevention of torture, and the provinces of La Pampa, Buenos Aires, Santa Fe and Neuquén have bills on the table.

**2. Prevention of torture: register and reports (recommendation 7)**

100. One of the duties of the Federal Prison Service is to take measures to prevent torture and to report any acts of torture that occur within its facilities to the proper authorities. Any official who is implicated in any act of this nature is, on the strength of that suspicion, barred from taking part in any activities involving inmates.

101. As a preventive measure in keeping with United Nations guidelines, video camera surveillance systems are in operation in the main complexes and units and are being



installed elsewhere. All searches and inspections must be filmed, and the video recordings must then be made available to the judicial authorities.

102. Threat detection systems capable of signalling the presence of metal, explosives and drugs are being set up in all federal facilities. These systems are supplemented by the use of manual scanner paddles. Officials who are implicated in acts of torture are not defended by the attorneys employed by the Federal Prison Service, and instructions have been issued regarding legal proceedings in such cases.

103. In 2011 a working group was set up to administer and design comprehensive plans, programmes, and policies for the promotion of the rights of persons deprived of their liberty and for the prevention of torture and other cruel treatment or punishment. This group will look at the routines used in federal prison facilities with a view to recommending the adoption of other procedures that will help to strengthen the protection of inmates' human rights.

104. The Chief Public Defender's Office has established an office to record, systematize and follow up on information regarding acts of torture and other forms of institutional violence. It is this office's responsibility to uncover acts of torture, other forms of institutional violence and inhumane conditions in federal prison facilities and to take the appropriate action in each case.

105. In 2008, a tripartite agreement was signed by the Public Defence Service, the Ministry of Justice and Human Rights and the Public Bar Association of Buenos Aires under which legal assistance can be requested of the Bar Association.

106. In 2011, the Ministry of Security set up a free hotline for reports of abuses committed by members of the police or security forces. It has also established a procedure for reporting irregularities and/or offences alleged to have been committed by members of those forces and for protecting whistle-blowers. In order to ensure that acts of institutional violence are identified and that the repetition of such acts is prevented and in order to facilitate information exchange, two cooperation agreements have been signed by the Ministry of Security and the Public Defence Service.

## **G. Juvenile criminal justice system (recommendations 11, 12, 13 and 14)**

### **1. Ombudsperson for children and young people (recommendation 11)**

107. The appointment of an ombudsperson for children and young people is pending.

### **2. Situation of children in detention (recommendation 12)**

108. Members of the Oversight Committee on the Institutional Treatment of Children and Adolescents<sup>47</sup> regularly visit the different centres where dependants of the State reside in order to ensure that the rights of children and adolescents are being respected. This committee makes referrals, lodges complaints and requests reports from the institutions involved. The National Directorate for Vulnerable Groups of the Human Rights Secretariat follows up on these reports and provides assistance in the implementation of recommendations set forth therein. The Directorate also makes inspections of this sort in the various provinces and in Buenos Aires.

109. The Ministry of Justice and Human Rights has instructed security forces to ensure that they abide by human rights standards in cases where a person under 18 years of age is arrested on suspicion of committing a crime.<sup>48</sup>

110. As of June 2010, 1,730 children and adolescents were being held in custodial institutions, chiefly in Buenos Aires, the Autonomous City of Buenos Aires and Córdoba. It

has been provided that children and adolescents who have to be held temporarily should be lodged in certain police stations that have been identified as being the most appropriate facilities for that purpose until such time as a new building to provide temporary lodging can be constructed.<sup>49</sup>

**3. Juvenile criminal justice system and alignment of legislation (recommendations 13 and 14)**

111. Act No. 26.061, which provides for the comprehensive protection of children's and adolescents' rights, reflects the principles set forth in the Convention on the Rights of the Child relating to assistance and protection for this segment of the population. Work continues on the strengthening of the Comprehensive System for the Protection of the Rights of Children and Adolescents. This system is made up of all the agencies, units and services that design, plan, coordinate, guide, implement and oversee national, provincial or municipal policies, whether under Government or private management, on the promotion, defence, support, protection and restoration of the rights of children and adolescents. It has succeeded in bringing about regulatory adjustments, carrying out institutional re-engineering processes, conducting human resource training and capacity-building sessions, making improvements in budget allocations and eliciting the active participation of different NGOs.

112. Policy efforts in respect of adolescents who have committed or are alleged to have committed criminal offences have included ongoing measures to strengthen the National Directorate for Adolescent Offenders, which is tasked with orienting national policy, coordinating policies with the provinces, providing training for technical services, improving building infrastructure and promoting alternatives to the deprivation of liberty in the case of children.

113. A programme for monitoring the implementation of international human rights instruments in respect of children and adolescents has been set up within the Human Rights Secretariat, and a survey of comprehensive protection laws and regulations at the provincial level was undertaken in 2009. The information gathered in that survey indicates that most of the provinces have brought their local laws and regulations into line with international human rights standards. There are, however, still some local laws that are based on the tutelary doctrine and some practices persist that should be modified in the light of international standards.

114. The Human Rights Secretariat has worked with a number of the provinces<sup>50</sup> to carry forward a comprehensive reform of the juvenile criminal system that provides for institutional support and mentoring, human rights training for personnel, regular visits and coordination with different governmental agencies.

115. Within the framework of the Meeting of High-Level Human Rights Authorities of MERCOSUR and Associated States, work continues on the proposed NIÑ@SUR Initiative,<sup>51</sup> whose aim will be to promote compliance with the Convention and other global and regional human rights instruments. This initiative will also focus on fostering dialogue and cooperation among member States in connection with the monitoring and achievement of the Millennium Development Goals.

116. The Ministry of Justice and Human Rights has established a committee to reform and update the laws governing the juvenile criminal system.<sup>52</sup> The Federal Council for Children, Adolescents and the Family has submitted a request for legislative action with regard to the amendment of the Juvenile Criminal Regime Act (Act No. 22.278/22.803), the modification of laws governing criminal procedure at the provincial level and coordination with the relevant agencies with a view to the development of alternatives to deprivation of liberty, monitoring of cases in which minors are deprived of their liberty, and respect for

children's rights. In July 2009, a bill on the legal regime applying to persons under 18 years of age who are in conflict with the law won general approval. This bill, which is in line with international standards in this area, is now in the Chamber of Deputies.<sup>53</sup>

## H. Rights of indigenous peoples (recommendations 15 and 16)

117. The Indigenous Rights Directorate, whose establishment within the framework of the National Institute of Indigenous Affairs (INAI) was provided for in Decree No. 702/2010, works to promote the participation of indigenous peoples in the development of public policies that affect them by encouraging indigenous communities to fully avail themselves of their rights and to become informed about their rights and about the tools which are at their disposal to help them exercise those rights.

118. In coordination with the Ministry of Education, INAI works to further the implementation of bilingual intercultural education as a means of strengthening and fostering an appreciation of the importance of the culture, mother tongues and world view of indigenous communities.

119. As part of its efforts to foster participation in the development of public policies that affect indigenous peoples, INAI has strengthened the operations of a number of bodies on which indigenous peoples are represented, such as the Council for Indigenous Participation, the Advisory Council, the Autonomous Indigenous Peoples Education Council, the National Registry of Indigenous Peoples Organizations and the Commission for the Analysis and Implementation of Indigenous Community Property Provisions. Seven of the country's provinces now have agencies or bodies that concern themselves specifically with indigenous affairs.<sup>54</sup>

120. The effective recognition of the rights of indigenous peoples is upheld by laws that deal with five different areas:

- Education: Existing laws focus on preserving and supporting the cultural mores, languages, world view and identities of different ethnic groups. Act No. 26.206 recognizes indigenous peoples' right to an education that fosters their cultural mores and designates the Autonomous Indigenous Peoples Education Council as the advisory body for intercultural bilingual education planning.
- Audiovisual communications services: Based on the belief that the promotion and dissemination of indigenous cultures is a responsibility of the State, Act No. 26.522 sets aside certain AM, FM and television broadcasting bands for indigenous peoples in the areas where they are settled. The establishment of audiovisual media created from an indigenous perspective is a pioneering step for the country. INAI plays an active role in this effort by facilitating access to information and communications technologies in cooperation with the Council for Indigenous Participation.
- Affirmation of indigenous rights: The Indigenous Rights Directorate<sup>55</sup> promotes the participation of indigenous peoples in the development of public policies that affect them.
- The environment and natural resources: The Indigenous Peoples and Natural Resources Directorate is responsible for ensuring that natural resource and land management processes respect the priorities and world view of indigenous peoples.
- Land: Indigenous communities' right to the communal possession and ownership of the lands which they have traditionally occupied is recognized in the Constitution of Argentina and the constitutions of the provinces of Formosa, Chaco, Chubut, Neuquén, Tucumán, Buenos Aires, Entre Ríos, Río Negro and Salta. The recognition of this right and of the right of indigenous peoples to be consulted about

matters that affect them constitute a policy of State since 2003. This policy is reflected in the passage of Act No. 26.160 and its extension by Act No. 26.554 to 2013. These laws provide for the implementation of title surveys for the lands occupied traditionally, currently and publicly by indigenous communities. This legal instrument thus establishes the necessary conditions for the communal possession and ownership by indigenous peoples of those lands. The technical, legal and cadastral indigenous land survey is making good progress (as of May 2012, 5 million hectares of the 15/18 hectares of indigenous lands had been surveyed). A significant number of indigenous communities are currently involved in community organization efforts, with a total of 305 communities having been surveyed to date. A draft bill that would set up a system of communal land titles has been drawn up by a committee which includes indigenous representatives. The bill to amend the Civil Code which was submitted to Congress in March 2012 provides for indigenous land titles. In addition, the Ministry of Security has adopted various crime prevention measures, including the preparation of guidelines for the registration of complaints at stations of the Argentine Federal Police Force; the adoption of a protocol for an early warning system designed to detect trafficking at border crossings; the dissemination of posters, banners and pamphlets on the problem; and the publicization of a free hotline that people can use to report trafficking at border crossings, airports and long-distance bus terminals.

121. INAI provides legal services to indigenous peoples as part of the Government's policy response to the need to provide effective legal defence and organizational capacity-building services to communities when their rights are infringed upon. These legal services take two forms: (a) assistance and financial support for specific communities; and (b) financial support for geographically based second-tier organizations that serve different communities of a given indigenous peoples.

122. INAI also takes action in situations where other rights, such as the right to participate in the management of natural resources, may be impinged upon, as, for example, in the cases of the Limonao community of Santa Cruz (consultation regarding a uranium mine); the Millaqueo community of Neuquén (community strengthening and mediation in community disputes); the LofAntieco of Chubut (land rights of the Lof); the Vuelta del Río community (land rights); the Costa de Lepá community of Chubut (community strengthening and mediation in community disputes); and the Tehuelche Sierra de Tecka community of Chubut (community strengthening, training and mediation in community disputes).<sup>56</sup>

#### **I. Systematic inclusion of a gender perspective in the follow-up to the universal periodic review process (recommendation 18)**

123. This report not only incorporates a gender perspective but also attempts to include the issues relevant to persons with disabilities, children and adolescents, older adults, the lesbian, gay, transgender and bisexual community, and others.

#### **J. The human right to food: resource distribution (recommendation 19)**

124. The objectives of the National Food Security Plan are as follows:

- Provide food assistance to families in a vulnerable position by distributing staple foodstuffs and food stamps or cards.

- Facilitate the own-production of foodstuffs, the supply of the necessary equipment and the self-supply of fresh produce for families and institutions (food kitchens, community centres, schools, etc.).
- Improve safety and hygiene in community food kitchens.
- Promote decentralized funding.
- Take action in the areas of education about nutrition, health care and family action to support nutrition and child development. Annual food support is now provided to approximately 1,800,000 households.

125. In 2009 the non-contributory per-child allowance was introduced as part of the social protection system. This allowance is paid out on a monthly basis to one of a child's parents if that parent is working in the informal market or is unemployed, does not receive any other sort of social benefit payment and has no more than five children. Since its inception, school enrolment has risen by 25 per cent.<sup>57</sup>

126. Another non-contributory monetary benefit is the allowance paid to pregnant women, also as part of the social protection system. This benefit is paid out monthly to pregnant women starting from the twelfth week of pregnancy and continuing until the infant's birth or the interruption of the pregnancy. Eligible recipients are pregnant women who are unemployed, who work as temporary "reservation of post" employees, who are registered in the simplified tax regime for self-employed persons (the *monotributo* system), or who work in the informal economy or in domestic service and earn a sum equivalent to or less than the adjustable minimum wage. In order to be eligible for this benefit, women must attend the prenatal check-ups provided for under the "Plan Nacer" ("birth plan").

127. The linkage of the "Plan Nacer" with the per-child allowance was a breakthrough policy development for the country which has established a direct tie-in with health-based conditional cash transfer programmes (enrolment in the "Plan Nacer", regular check-ups and complete vaccination schedules).<sup>58</sup>

## **K. National Human Rights Plan<sup>59</sup> (recommendation 20)**

128. The National Human Rights Plan was established by Decree No. 696/10. The Human Rights Secretariat is responsible for the plan's implementation, follow-up, monitoring, updating and management. The recommendations were included in the updated draft version of the plan in chapters on such topics as: guaranteeing equality in diversity; the reduction of violence and the provision of access to justice; remembrance, truth, justice and reparations policies; the universalization of rights and social inclusion, etc.

## **L. Voluntary commitments**

129. In addition to the voluntary commitments mentioned (and duly referenced) in preceding paragraphs, the following recommendations have also been implemented:

- Since 2005, in accordance with Human Rights Council resolution 2005/66, Argentina has been contributing to the development of the right to the truth as an autonomous right and to its dissemination and application around the world. In the course of its participation in the Council, Argentina sponsored a number of resolutions, all of which have been adopted by consensus. Council resolution 9/11, which recognizes the importance of respecting and ensuring the right to the truth, was adopted on 24 September 2008. Later, in October 2009, the adoption of resolution 12/12 consolidated this right further. The country's commitment to the

promotion of the right to the truth also led to its advocacy and co-sponsorship of the initiative to appoint a special rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, which was provided for on 26 September 2011 by means of resolution 18/7. This special procedure is closely involved in the effort to combat impunity, uncover the truth and provide access to justice.<sup>60</sup>

- Argentina worked for the creation of a body within MERCOSUR — the Human Rights Public Policy Institute — which promotes technical cooperation, research and public policy coordination among its member countries.<sup>61</sup>
- Since 2005, the effective implementation of the initiative known as “Towards a National Plan to Combat Discrimination”, which focuses on public policy design, has been overseen by INADI. The Anti-Discrimination Policy Council has coordinated the start-up of an institutional scheme for the participatory implementation, monitoring and oversight of the Plan at the federal level.<sup>62</sup>

## V. Challenges and constraints

130. While numerous national agencies and bodies were involved in the preparation of this report and provided information for inclusion in it, an effort will be made during the preparation of the next periodic report to work with a larger number of agencies at the provincial level. Federal councils<sup>63</sup> are already in place that serve as forums in which federal and provincial bodies can work together to address issues of common interest; the challenge now is to work more closely with those councils in order to take advantage of what they have to offer and to engage in joint policymaking exercises.

## VI. Conclusion

131. This report covers the advances achieved throughout Argentina in defending and promoting human rights and implementing the recommendations and voluntary commitments assumed in connection with the initial report. The Government of Argentina is nonetheless aware that, despite the progress that has been made, certain challenges still remain that it must strive to overcome in order to ensure that all human rights are fully respected, without distinction. It will therefore continue to work unstintingly to honour the commitments that it has assumed.

### Notes

<sup>1</sup> Adicionalmente, funcionarios del gobierno argentino asistieron al Seminario EPU, Preparación del Segundo Ciclo que tuvo lugar en Madrid, España en septiembre de 2011, organizado por la OACDH.

<sup>2</sup> Del Ministerio de Justicia y Derechos Humanos: Subsecretaría de Gestión Penitenciaria; Dirección Nacional de Política Criminal; Servicio Penitenciario Federal; Instituto Nacional contra la Discriminación; Instituto Nacional de Asuntos Indígenas; Secretaría de Derechos Humanos de la Nación; Dirección Nacional de Asuntos Jurídicos en materia de Derechos Humanos; Dirección de Atención a Grupos en Situación de Vulnerabilidad de la Secretaría de Derechos Humanos; Centro de Asistencia a Víctimas de Violaciones de Derechos Humanos “Dr. Fernando Ulloa”. Del Ministerio Público de Defensa: Defensoría General de La Nación, del Ministerio de Salud de la Nación: Programa de Salud y Derechos Humanos, de Presidencia de la Nación: Comisión Nacional Asesora para la Integración de las Personas con Discapacidad (CONADIS), del Ministry of Security: National Human Rights Directorate.

<sup>3</sup> Ver Informe EPU 1er. Ciclo.

- <sup>4</sup> Comité de Derechos Humanos, Comité de los Derechos del Niño, Comité para la Eliminación de la Discriminación Racial, Comité para la Eliminación de Todas las Formas de Discriminación contra la Mujer, Comité contra la Tortura y Comité contra la Desaparición Forzada.
- <sup>5</sup> Ver párrafo 66 del Informe del Grupo de Trabajo sobre el EPU de Argentina (A/HCR/8/34) 1er. Ciclo.
- <sup>6</sup> Actualmente a consideración de la Cámara de Diputados de la Nación, tras haber logrado la media sanción en la Cámara de Senadores de la Nación en julio de 2012. Ver párrafo 67 del Grupo de Trabajo sobre el EPU de Argentina (A/HCR/8/34) 1er. Ciclo.
- <sup>7</sup> A través de la jubilación para amas de casa, jubilación anticipada para desocupados que aún no cumplen con la edad jubilatoria, cuenten con los 30 años de aportes requeridos y jubilación automática para trabajadores autónomos.
- <sup>8</sup> Act No. 26.432/2008.
- <sup>9</sup> Act No. 26.639/2010: la ley establece los de presupuestos mínimos para la protección de los glaciares y el ambiente peri-glacial, con el fin de preservarlos como reservas estratégicas de recursos hídricos para el consumo humano y agrícola, la recarga de cuencas hidrográficas, la protección de la biodiversidad, y como fuente de información científica y atractivo turístico.
- <sup>10</sup> Act No. 26.447/2009, modifica la ley 22.421 respecto de las autoridades de aplicación en Parques Nacionales, Monumentos Naturales, Reservas Nacionales, y áreas sujetas a la Administración de Parques Nacionales, en lo concerniente a la conservación, protección y manejo de la fauna silvestre.
- <sup>11</sup> El Plan se articula en cuatro ejes estratégicos de acción: Red Federal de Cultura Digital; Infraestructura Cultural; Promoción y Estímulo a la Innovación en las Artes y las Industrias Culturales; y administración del Centro Cultural Bicentenario.
- <sup>12</sup> Puede consultarse en el sitio Web de Conadis: [www.conadis.gov.ar](http://www.conadis.gov.ar).
- <sup>13</sup> La campaña fue difundida en la televisión pública, diarios, vía pública y radio. Su realización fue el fruto del trabajo conjunto entre la Secretaría de Comunicación Pública de la Nación y Co.Na.Dis . Puede consultarse en: <http://www.conadis.gov.ar/>.
- <sup>14</sup> A Título de ejemplo se puede mencionar los Programas: Ciudades Libres de Discriminación; Comunas Libres de Discriminación; observatorio de la Discriminación en Radio y Televisión; Programa Nacional Formación de Formadores; Programa Derechos y Diversidad Sexual; Paridad Laboral Entre Mujeres Y Varones; Promoción de la Diversidad en la Educación; Privados/as de la Libertad; Migrantes, Derechos Humanos y no Discriminación, entre otros.
- <sup>15</sup> Iniciativa lanzada en 2009 por el INADI en forma coordinada con el Consejo Nacional de las Mujeres, la Secretaría de Gabinete y Gestión Pública y la Comisión Tripartita de igualdad de oportunidades entre varones y mujeres en el mundo laboral.
- <sup>16</sup> Resoluciones ministeriales N° 58/11; 469/11; 472/11, 1079/11 entre otras.
- <sup>17</sup> Mediante Resolución Ministerial 1181/2011.
- <sup>18</sup> La Act No. 25.871, Act No. de Migraciones, establece los objetivos de la política migratoria argentina basada en nuestra realidad histórica, geográfica, económica y en el contexto de integración regional, a la luz de una tradición de país receptor de migrantes. La norma crea los mecanismos para acceder a la regularidad migratoria y prevé, entre otras medidas, el derecho a la salud y la educación de los habitantes extranjeros, aun en el caso de que se encuentren en situación migratoria irregular.
- <sup>19</sup> Ver MERCOSUR RMI/DI No. 1/08.
- <sup>20</sup> “Las Víctimas contra las Violencias”; “Brigada Niñ@s”; “Brigada Móvil de Intervención en Urgencias con Víctimas de Delitos Sexuales”; “Programa Nacional de Protección de Testigos”; “Oficina de Rescate y Acompañamiento a las Personas Damnificadas por el Delito de Trata”. Se han establecido en el ámbito de todas las fuerzas de seguridad federales unidades específicas para la prevención e investigación del delito de trata de personas. Funciona asimismo una Unidad Especial para la Promoción de la Erradicación de la Explotación Sexual de Niños, Niñas y Adolescentes y un Programa Nacional de Prevención de la Sustracción y Tráfico de Niños y de los Delitos contra su Identidad, en cuya órbita funciona el Registro Nacional de Información de Personas Menores Extraviadas.
- <sup>21</sup> A este fin la UFASE celebró convenios con las oficinas de género dependientes de la Supreme Court con el objeto de elaborar de manera conjunta una “Guía de trabajo en talleres sobre género y trata de personas con fines de explotación sexual” para capacitar a actores y operadores judiciales.
- <sup>22</sup> Ver anexo.
- <sup>23</sup> Asimismo, se desarrollan las denominadas “Mesas Provinciales”, como espacios de trabajo

- interjurisdiccional e interinstitucional, articulados para la incorporación de la perspectiva de género en la política pública.
- <sup>24</sup> Mediante los talleres se busca, generar espacios de reflexión y debate en torno a las temáticas que afectan las mujeres. Hasta el momento se han realizado 150 talleres con la participación de 16.000 personas.
- <sup>25</sup> Datos relevados de la Unidad Fiscal de Coordinación y Seguimiento de las Causas por violaciones a los DDHH cometidas durante el terrorismo de Estado del MPF, a junio 2012.
- <sup>26</sup> Mediante Acordada N° 42/08.
- <sup>27</sup> Datos a febrero de 2012.
- <sup>28</sup> Resolución Ministerial 181/2011.
- <sup>29</sup> Resolución Ministerial 166/2011.
- <sup>30</sup> Resolución Ministerial 544/2011.
- <sup>31</sup> Por Resolución Ministerial N° 328/2009 se transfirió al ámbito del Programa de Verdad y Justicia del Ministerio de Justicia, Seguridad y DDHH de la Nación.
- <sup>32</sup> Mediante Decree No. 141/2011.
- <sup>33</sup> En construcción se encuentra la Unidad Centro Federal de Cuyo en Mendoza (536 plazas). En Licitación: Complejo Federal de Condenados de Agote en Mercedes, Bs. As. (1584 plazas).
- <sup>34</sup> Se puede mencionar tareas ambientales varias en Unidad n°3 y 31 de Ezeiza, Red contra incendio y salidas de emergencia en la Unidad n°7 de Chaco, otras se están licitando.
- <sup>35</sup> Entre ellos se encontraban: Brasil, Uruguay, Cuba, España, EEUU, Canadá.
- <sup>36</sup> Con la participación de programas de Ministerio de Salud de la Nación: Programa de Salud en Contextos de Encierro, Dirección Nacional de Maternidad e Infancia, Programa Nacional de Prevención de Cáncer Cérvico Uterino, Programa Nacional de Salud Sexual y Procreación Responsable, Programa Nacional de Control de la Tuberculosis, Dirección de Sida y Enfermedades de Transmisión Sexual.
- <sup>37</sup> El Consejo está integrado por organizaciones gubernamentales y ONGs, y busca analizar la situación de las mujeres en contextos de encierro y proponer medidas tendientes a alcanzar un trato equitativo y no discriminatorio.
- <sup>38</sup> Resolución M.J.S.y D.H. N° 1.203 de fecha 18 de mayo de 2010.
- <sup>39</sup> Extendido hasta el 2011.
- <sup>40</sup> Act No. N°22117 y sus modificatorias.
- <sup>41</sup> Como resultado de estas audiencias: se ha logrado la conformación de una Mesa de Trabajo para elaborar un marco regulatorio del Resguardo de Integridad Física (RIF), la adopción y homologación del “Protocolo para prevenir y resolver situaciones de violencia en unidades de jóvenes adultos”, y la elaboración de un “Protocolo de Manipulación y Control de Alimentos”.
- <sup>42</sup> La Secretaría de DDHH, la Secretaría de Política Criminal y Asuntos Penitenciarios, el Consejo Federal de DDHH, y el Ministerio de Relaciones Exteriores, Comercio Internacional y Culto, entre otros.
- <sup>43</sup> Ver compromiso voluntario, párr. 70 del Informe del Grupo de trabajo sobre el Universal periodic review de Argentina, 2008.
- <sup>44</sup> Act No. 6483.
- <sup>45</sup> Act No. 4621.
- <sup>46</sup> Act No. 8284.
- <sup>47</sup> que funciona en el ámbito de la Defensoría General.
- <sup>48</sup> Mediante la Resolución N° 2208/08.
- <sup>49</sup> Resolución ministerial MS 611/2011.
- <sup>50</sup> Por ejemplo: Provincia de Santa Fe (Instituto de Rehabilitación del Adolescente de Rosario); Provincia de Salta (Centro de Atención a Jóvenes en Conflicto con la Act No. Penal) Santiago del Estero; Provincia de Buenos Aires (Unidad de Atención en Conflictos Juveniles de La Plata).
- <sup>51</sup> En el Grupo de Trabajo de la Comisión Permanente Niñ@Sur, se esta abordando la adecuación legislativa de la normativa interna de cada uno de los Estados a la Convención. Se ha llevado adelante la sistematización de información que conforma la Base de Datos Legislativa del MERCOSUR y Estados Asociados relativa a Trata, Tráfico, Explotación Sexual y Venta de Niños, y a la temática de Justicia Penal Juvenil.
- <sup>52</sup> Resolución Nacional N° 578/2008.
- <sup>53</sup> Las características más salientes de los proyectos con estado parlamentario son: se trata de leyes de



mínima intervención, conforme a un derecho penal mínimo; que respetan las garantías procesales y sustantivas; que tienden a la implementación de un sistema de justicia restaurativa o reparadora y un alejamiento de la justicia retributiva; que regulan institutos de desjudicialización del conflicto mediante herramientas tales como la conciliación, la mediación, el principio de oportunidad reglado, etc.; que incluyen un fuerte componente de sanciones no privativas de la libertad con la reparación del daño causado y la prestación de servicios a la comunidad, entre otras; y que sólo establecen la privación de la libertad para los delitos graves taxativamente enumerados, por tiempo determinado, y sólo cuando no resulte posible aplicar otras medidas.

<sup>54</sup> Río Negro, Buenos Aires, Santa Fe, Formosa, Chaco, Chubut, Salta.

<sup>55</sup> Creada mediante el Decreto No. 702/2010.

<sup>56</sup> Entre otros también se puede mencionar la Comunidad Motoco Cárdenas de Chubut (dictamen sobre la retroversión de los títulos individuales); Comunidad Catalán, Puel y Confederación Mapuche de Neuquén (presentación de *amicuscuriae* fundamentando el derecho a la consulta ante la disposición que crea un Municipio en territorios comunitarios); Comunidad del Pueblo KollaTinkunaku de Salta (definición del sujeto de derecho en la ley N° 24.242); Comunidad Campo de la Cruz de Buenos Aires (declaración de área protegida del territorio); comunidad Paisman Vera de Santa Cruz (fortalecimiento comunitario y mediación en el conflicto comunitario); Comunidad La Primavera en la provincia de Formosa (fortalecimiento comunitario, mediación en el conflicto comunitario y contacto con las autoridades provinciales correspondientes).

<sup>57</sup> <http://www.presidencia.gov.ar/component/content/article/102-obra-de-gobierno/1307-inclusion>.

<sup>58</sup> Fueron identificados 230.000 niños/niñas menores de 6 años que aún no estaban generando el cobro de la AUH por no integrar ninguna de las bases o padrones que utilizó la ANSES para identificar a los potenciales titulares de la AUH.

<sup>59</sup> Ver párrafo 70 del Informe EPU 1er. Ciclo.

<sup>60</sup> Ver párrafo 68 del Informe EPU 1er. Ciclo.

<sup>61</sup> Ver párrafo 69 del Informe EPU 1er. Ciclo.

<sup>62</sup> Ver párrafo 70 del Informe EPU 1er. Ciclo.

<sup>63</sup> Ejemplos de los consejos federales existentes son: derechos humanos, educación, adultos mayores, discapacidad, ambiente, niñez, adolescencia y familia, mujer, entre otros. Para mayor información ver la página [www.sgp.gov.ar](http://www.sgp.gov.ar).