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**SUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15(C) OF THE
ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1***

Argentina

The present report is a summary of 22 stakeholders' submissions¹ to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The periodicity of the review for the first cycle being four years, the information reflected in this report mainly relates to events that occurred after 1 January 2004.

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

I. BACKGROUND AND FRAMEWORK

A. Constitutional and legislative framework

1. According to the Equipo Latinoamericano de Justicia y Género (Latin American Justice and Gender Team) (ELA), Argentina has signed most of the United Nations and Organization of American States treaties protecting human rights. The nub of those treaties took on constitutional rank with the 1994 reform of the Constitution.² According to ELA, the constitutional reform also covered points of major significance for the recognition of women's rights. Many regulations, both national and provincial-level, have also been adopted. ELA points out, however, that the main problem facing Argentina is the disconnection between the law in the abstract and the law as applied, as can be seen, for example, in the scant use made of the legal proceedings and standards that are available.³

2. The Fundación Sur Argentina (Argentine South Foundation) (FSA) reports that, despite the ratification and incorporation into the Constitution of the Convention on the Rights of the Child, and the adoption in 2005 of the Rights of Children and Adolescents (Comprehensive Protection) Act, the State has yet to comply fully with its obligation to harmonize all legislation. While the new Act was passed to put a formal stop to all the practices associated with the "irregular situation model", the truth is that the new legal definition of children as possessors of rights has not yet been put into practice in all regions and fields of activity. Besides, the Civil Code, which defines minors as legally incompetent, continues to apply. There are reports of difficulties in bringing the change about, such as a lingering inclination towards guardianship or patronage, budgetary obstacles and resistance within the judiciary itself. In criminal matters, FSA reports, the decree-law on the penal treatment of minors, which is based on the "irregular situation" doctrine, is still in force; this does not clearly distinguish between children in need of care and protection and children in conflict with the law. Nevertheless, FSA indicates, there are currently before the two chambers of Congress several bills on juvenile criminal responsibility which have put the need to bring domestic legislation into line with the Convention on the Rights of the Child onto the national agenda.⁴

3. The Comité de América Latina y el Caribe para la Defensa de los Derechos de la Mujer (Latin American and Caribbean Committee for the Defence of Women's Rights) (CLADEM) reports that the National Sexual Health and Responsible Parenthood Act was passed in 2002. This provides for the creation of a sexual and reproductive health programme under the Ministry of Health, offering information, advice and free contraceptives at all public hospitals, sex education in public schools, and training for health workers. CLADEM says, however, that the Act does not require sex education to be provided in privately run schools, that religious health centres are not required to prescribe or supply contraceptives, and that doctors and health workers at State health-care facilities can object "on conscientious grounds" to offering such assistance. Since Argentina is a federal State, CLADEM points out, the provinces and the City of Buenos Aires need to pass equivalent laws or subscribe to the national one; so far they have done so only in part,⁵ and there exist a variety of widely disparate provincial laws, particularly on sex education.⁶

B. Institutional and human rights structure

4. The National Council for Women (CNM) is the national governmental body responsible for equal opportunity and equal treatment policy. ELA points out that, in 2004, CEDAW commented on the limited role that CNM plays in the government structure, since it is not part of the Cabinet.⁷ According to information from CLADEM, the budget allocated to CNM declined by 80 per cent in 2007.⁸ ELA recommends that the State should assign CNM a budget commensurate with the

policies it is supposed to carry out, and advocates better coordination between CNM and provincial and municipal offices for the advancement of women.⁹ ELA also reports that the Supreme Court has set up a domestic violence office, which has not yet gone into operation.¹⁰

5. The Centro de Estudios Legales y Sociales (Centre for Legal and Social Studies) (CELS) reports that Argentina has set up three new bodies to deal with claims relating to the truth and justice process: (a) the Case Coordination and Follow-up Unit within the Office of the Attorney General; (b) the Truth and Justice Programme within the National Executive; and (c) the Support and Follow-up Unit investigating the criminal cases of forced disappearance before 1983, which is part of the Supreme Court. CELS indicates that the formal creation of these bodies is an important step forward. It draws attention, however, to the lack of precise information on how cases are progressing, the absence of a protection policy (properly financed and staffed) for victims, witnesses, human rights defenders and civil servants, and the lack of any analysis of the structural problems requiring institutional reform over the medium/long-term, or any plans for overcoming them.¹¹

C. Policy measures

6. CLADEM draws attention to the absence of gender policies, stating that there are only piecemeal, uncoordinated efforts of short duration. There are also no means by which civil society can check and monitor compliance with social plans and programmes.¹² ELA also emphasizes the lack of a national plan to prevent and protect against domestic violence, and the absence of clear, precise, reliable statistics disaggregated by sex for use in monitoring respect for women's rights.¹³

7. In 2005, the President issued a call to help draw up a national plan of action on children's rights, stating that work committees comprising representatives of the State and civil society were to be formed. The Colectivo de Derechos de Infancia y Adolescencia (Children's and Adolescents' Rights Collective) (CDIA) reports that work on the plan has lost impetus and civil society has not played the role it had been expected to.¹⁴

8. The Office of the National Ombudsman draws attention to the need for an appropriate policy on disability, making provision for positive action on planning, execution, management and financing issues by the competent State authorities.¹⁵

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

1. Equality and non-discrimination

9. The Comunidad Homosexual Argentina (Argentine Homosexual Community) (CHA) stresses the need to amend, make or repeal laws so as to secure recognition of the civic equality of gays, lesbians, transvestites, transsexuals, bisexuals and intersexuals. It mentions in particular several items that are pending: the amendment of Act No. 23.592 to make non-discrimination on grounds of sexual orientation or gender identity a part of national law; the passage of the national law on civil union and reform of the Marriage Act; repeal of the provincial codes criminalizing and punishing homosexuality and transvestism; a ban on discrimination in employment; the amendment of transvestites' and transsexuals' identity papers; the repeal of legislation blocking sex-change operations; amendment of the Ministry of Health resolution decrying and prohibiting blood donations to homosexuals and sex workers; and the passage of legislation guaranteeing single heterosexual women and lesbian mothers access to fertility treatment, and the explicit inclusion of sexual orientation and gender identity in the national Sex Education Act passed in 2006.¹⁶

10. Action Canada for Population and Development (ACPD) reports that there are provisions in the Codes of Misdemeanours of four Argentine provinces (Catamarca, Santa Fe, Santiago del Estero and Formosa)¹⁷ punishing with imprisonment or fines anyone who “in daily life dresses or passes him/herself off as a person of the opposite sex”. It also indicates that in practice the police make use of those provisions to arrest transsexuals. The arrests are generally accompanied by verbal, physical and sexual abuse. ACPD does, however, indicate that the National Plan to Combat Discrimination endorsed by the Executive¹⁸ specifies that provisions allowing the police to detain people without prior judicial authorization are to be repealed.¹⁹ ACPD recommends giving immediate effect to the corresponding proposals in the National Human Rights Plan, thus repealing the provisions concerned.²⁰

11. The Office of the National Ombudsman mentions that people with disabilities are just starting to play a part in civil and political life, given the many barriers, the few publicity campaigns conducted their. The social criterion of disability is not applied to issues of health and rehabilitation, and health-care providers, mostly private, are reluctant to offer comprehensive coverage to persons with disabilities; there is no modification of the curriculum in education, nor any physical or technological alterations, to suit the needs of persons with different types and degrees of disability; under current legislation, persons with disabilities are not considered productive for employment purposes; and the policy governing social security goes no further than the provision of assistance. As regards access to justice, there are irregularities in the systems affording representation, and there are no specific allocations for the purpose in the national budget.²¹

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

12. CELS reports that the data bank on incidents of torture and other cruel treatment and punishment at the Buenos Aires Court of Cassation legal aid office registered 2,551 cases between March 2000 and August 2004. The registry of reported incidents of coercion and physical or mental ill-treatment recorded 4, 3.914 complaints between September 2000 and June 2004. CELS also reports that the State has yet to comply with its obligation to set up a national mechanism for the prevention of torture. That torture or ill-treatment takes place when people are detained and in prisons and provincial police stations has been reported by many sources and acknowledged by judicial officials as well as governmental bodies, according to a report and data provided by CELS.²²

13. In their submissions, CELS, Human Rights Watch (HRW), the Asociación por los Derechos Humanos (Human Rights Association) (APDH), the Grupo de Mujeres de la Argentina (Argentine Women’s Group) (GMA) and the Office of the National Ombudsman refer to conditions in detention, excessive recourse to pretrial detention, and the ill-treatment and torture to which individuals deprived of their liberty are subjected.²³ CHA reports on the discrimination, ill-treatment and abuse that homosexuals, transvestites and transsexuals suffer in prison.²⁴ APDH recommends repealing the laws assimilating federal and provincial prison administrations to military institutions, including the laws that guarantee members of those administrations “the right” to be defended by lawyers from the same institution if they are accused of offences; it also advocates action to prevent the recurrence of violent deaths in prison, and investigations into crimes taking place in prisons.²⁵

14. On the same issue, HRW indicates that in a landmark ruling in May 2005, the Supreme Court declared that all prisons in the country must abide by the UN Standard Minimum Rules for the Treatment of Prisoners and although there have been slight improvements in the province of Buenos Aires, the situation remains severe.²⁶

15. The Office of the National Ombudsman also reports on the problem of the individuals detained at police stations in Rosario, Santa Fe Province (police station 15 and substation 20), and at City Hall in Córdoba, where conditions are subhuman. It also reports that detainees at City Hall in Córdoba are not segregated in accordance with the status of their prosecutions or with their adaptability. The Ombudsman also points out that he has submitted a petition of *habeas corpus* in respect of all those who are being held or detained at the facilities in question; this application is awaiting a judicial ruling.²⁷

16. The Global Initiative to End All Corporal Punishment of Children (GIEACPC) notes that in practice, conditions in child detention centres do not match the legal standards. The Code of Criminal Procedure and the Criminal Code provide for the establishment of specific facilities for children in pretrial detention or sentenced to imprisonment, but indicates that many children are detained in local police stations where they are also subject to corporal punishment and other ill-treatment.²⁸

17. Mental Disability Rights International - Centro de Estudios Legales y Sociales (MDRI-CELS) expresses concern about the situation of people with mental disabilities, noting abuses in a number of Argentina's psychiatric hospitals, social care homes, and psychiatric penal units, in particular MDRI-CELS reports a lack of investigation of deaths in institutions, detention of persons with mental disabilities in isolation cells, physical and sexual abuse, lack of medical care, lack of rehabilitation, misuse of medications and overcrowding.²⁹

18. GIEACPC indicates that corporal punishment of children is lawful in the home under federal legislation and that there is no explicit prohibition of corporal punishment of children in schools. In the penal system, corporal punishment of children is unlawful as a sentence for crime, but there is no explicit prohibition of its use as a "disciplinary" measure in penal institutions. There is no explicit prohibition of corporal punishment of children in alternative care settings. GIEACPC indicates that as at February 2007, a network of NGOs planned a situation analysis with a view to introduce debate on the legal status of corporal punishment in 2007/2008.³⁰ GIEACPC recommends introducing legislation as a matter of urgency to prohibit corporal punishment of children in all settings.³¹

19. CLADEM reports an increase in violence against women which is difficult to quantify because of a lack of records.³² It says that legislative content and procedure are out of date, and no gender perspective is being incorporated into discussions of the problem although it is acknowledged that the main victims are women. As far as access to justice in cases of sexual violence is concerned, the notion of keeping the family together takes precedence over individuals' human rights, and there is a preference for conciliation and mediation. CLADEM is also concerned that marital rape is not covered by legislation and that only sexual abuse is classified as an offence, not sexual harassment.³³ It recommends widening the scope of the legislation.³⁴ ELA advocates a nationwide inquiry to determine the scope and characteristics of violence against women.³⁵

20. On the issue of violence against women, similar observations are also made by the Foundation for Studies and Research on Women (FEIM), recommending to guarantee the availability of reliable data to monitor and improve public policy design.³⁶ APDH indicates that no legislation has been passed to make trafficking in persons a domestic offence or to protect victims' privacy and identities and give effect to measures designed to promote their physical, mental and social rehabilitation.³⁷ On trafficking for purposes of sexual exploitation, APDH says that Argentina is a source, transit and destination country where networks of unlawful associations are in operation. The Office of the Ombudsman says it has launched an investigation into the trade and trafficking of women for the purpose of sexual exploitation. It reports that for many years Argentina

has been predominantly a country of destination, and while it is aware of cases of young people from other countries who have been trafficked for such purposes, the predominant problem is internal trafficking, with unlawful movements and renditions between different provinces facilitated by a variety of operators active in the recruitment, transport and reception phases as well as in exploitation when the victims reach their destination.³⁸ ADPH recommends bringing the current rules up to date and making trading and trafficking in women for the purpose of sexual exploitation a federal offence; setting and pursuing regional and federal policies and strategies to prevent, investigate, punish and suppress the national and international trade and traffic in women; running medical and psychological assistance programmes and protection and rehabilitation schemes for the victims of trafficking; and conducting publicity campaigns to alert people to and forestall the problem.³⁹ CLADEM is in favour of combating the trade in women and sexual exploitation in an effective manner.⁴⁰

3. Administration of justice and the rule of law

21. HRW notes that important steps to increase the transparency of Supreme Court appointments by requiring public hearings to debate nominations by the Executive Branch were undertaken by the former President (Mr.) Kirchner. However, as indicated by HRW, in 2006, the former President also signed legislation that threatened judicial independence by restructuring the Judiciary Council, the body responsible for selecting judges for appointment by the Executive Branch.⁴¹

22. Since 2003, significant progress in prosecuting military and police personnel responsible for “disappearances”, killings and torture during the military dictatorship (1976-1983) has been made, as noted by HRW, el Comité para la Defensa de la Salud, la Etica Profesional y los Derechos Humanos (CODESEH) and CELS.⁴² HRW indicates that several important cases were reopened in 2003 after Congress annulled the 1986 “Full Stop” (*Ley de Punto Final*) and the 1987 “Due Obedience” (*Ley de Obediencia Debida*) amnesty laws, and the Supreme Court declared the unconstitutionality of these laws in 2005. According to the Attorney General’s Office, there are currently more than 250 people in jail facing charges for these crimes.⁴³ HRW also notes that the security of witnesses in human rights trials has become a serious concern since the mysterious disappearance in 2006, of a torture victim who had testified in one of the cases that concluded that year.⁴⁴

23. On the same subject, CODESEH refers to the status of victims as witnesses and/or parties in the related judicial proceedings.⁴⁵ It draws attention to a number of obstacles: the slowness of the proceedings; the growing campaign of threats against witnesses and civil servants; the shortage of staff and resources for dealing with cases; the lack of guidance from the Supreme Court on the criteria to apply when tackling pretrial investigations, and at the trial stage; the failure to appoint magistrates to every court, and the number of public-prosecutor positions vacant.⁴⁶ CELS also points to the need for a comprehensive strategy to govern the handling and follow-up of judicial proceedings.⁴⁷ On the subject of victim and/or witness protection, CODESEH recommends that judicial proceedings should be taken up in conjunction with professionals and bodies that can offer psychological and emotional assistance. It advocates institutional psychological and social aid agreements and arrangements; trust-building between witnesses and the teams of professionals tending to their needs before, during and after the trial; and guidance on the course of the judicial proceedings. It recommends the introduction of a system to monitor delays to proceedings in court, faster action to fill vacant posts, and action to prevent cases from fetching up before a single court.⁴⁸ FIDH recommends investigations into incidents of threats and harassment; administrative, civil and criminal penalties for anyone in public administration who obstructs the course of justice; and guaranteed protection for any individual against violence, threats, reprisals, discrimination, pressure or arbitrary influence of any other kind in response to the legitimate exercise of his or her rights.⁴⁹

24. FSA indicates that a recent report by the human rights branch of the Ministry of Justice and Human Rights and UNICEF Argentina shows that there are some 20,000 children and adolescents in detention, 87.1 per cent of them for economic and social reasons, and only 12.1 per cent in connection with criminal offences.⁵⁰ The Penal Treatment of Minors Act gives juvenile justices the authority to deal with minors irrespective of whether they are liable to punishment and regardless of the outcome of any criminal investigation. FSA reports that in 2006 it submitted a petition of *habeas corpus* on behalf of all individuals under the age of 16 who had been deprived of their liberty under judicial “care” orders; the petition was rejected by National Juvenile Court No. 5 and the fifth division of the National Criminal and Correctional Appeals Court. Even so, the third division of the National Criminal Appeals Court set up a forum, to which it invited national and local authorities along with FSA, to identify the chief sticking points and suggest ways of overcoming them. The most recent session of the forum was held on 21 August 2007.⁵¹ Since 1997, FSA reports, the juvenile justice system has handed down at least 12 life sentences to individuals who were under the age of 18 years when they committed the offences of which they were convicted. The Supreme Court legal aid office submitted a complaint about those sentences to the Inter-American Court of Human Rights, and the State began to seek an amicable settlement in April 2004, so far without result.⁵² CDIA also refers to the handling of this complaint, saying that the State could commute the youngsters’ sentences or give its approval to a new scheme for the penal treatment of children.⁵³

25. On the subject of access by women to justice, ELA indicates that according to research carried out in the city of Buenos Aires, poorly-off women are unaware that free legal aid services exist, and do not know what institutions would offer such services.⁵⁴ It recommends a coordinated system of free legal services embracing the services and resources available in public and private entities, and a wide-ranging publicity campaign.⁵⁵

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

26. Reporteros sin Fronteras (Reporters without Borders) (RSF) mentions freedom of the press, indicating that since the beginning of 2007 a total of 16 journalists have been attacked or wounded, six have been threatened, and two have been incarcerated for some hours. Three media organs have been censored or attacked.⁵⁶ FIDH also voices concern at the way social protest is treated as a criminal offence, indicating that most demonstrations end in disproportionate repressive action by the police and/or security forces with a great deal of violence. In October 2006, over 5000 people were put on trial for exercising their rights to strike, to petition the authorities, to demonstrate and to voice opinions in public against social and economic policy. One in four of the cases reported takes place in Neuquén province. FIDH urges the State to speak out in favour of respect for freedom of expression, to abstain in public discourse from describing demonstrators as unqualified or criminal, to apply legal, criminal and administrative penalties to abuses of power and excessive use of force, and to investigate the disappearance of certain people during demonstrations in the year 2002.⁵⁷

27. HRW notes that criminal defamation of public officials remains an offence in Argentinean law indicating that after being under debate for several years, a bill to decriminalize defamation, which was presented in compliance with a friendly agreement brokered in 1999 by the Inter-American Commission on Human Rights, has not been adopted yet.⁵⁸

28. ELA indicates that Argentina was the first country in the region to introduce affirmative action, through the female quota, into its electoral system. It reports, however, that the percentage of women in decision-making positions in the Executive, the legislature and the judiciary is low, and that this is also true at the province level.⁵⁹

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

29. CLADEM points out that 90 per cent of unpaid domestic work is still being done by women and that there are no policies or laws making paid work compatible with domestic work or allowing or encouraging men to share responsibility for looking after dependent children or other private chores.⁶⁰ ELA also refers to the obstacles that women face in joining the labour market.⁶¹ CLADEM recommends setting up affirmative action and equal opportunity schemes in the employment and poverty-reduction fields, and guaranteeing free public childcare services.⁶² ELA recommends publicizing childcare services in connection with policies to reconcile work with family life as policies for homes, not for women, as a means of downplaying the role of women as chief caregivers, and stepping up State efforts to bring work, particularly the domestic service chiefly performed by poorly-off women, into the formal sector.⁶³

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

30. CDIA says that data for the first quarter of 2007 from the National Statistics and Census Institute show 23.4 per cent of the population as affected by poverty and 8.2 per cent by extreme poverty. It also indicates that in the first six months of 2005, some 38.5 per cent of the population lived below the poverty line, while among the under 18s, according to the report *Salud Materno Infantil Juvenil 2006* produced by the Sociedad Argentina de Pediatría (Argentine Paediatrics Society) (SAP) and UNICEF, 56.9 per cent of children and adolescents were poor and 23.3 per cent, extremely poor.⁶⁴ On the status of children and adolescents, FSA also points out that these figures signal the absence of policies to give this population sector access to adequate food, good education, appropriate housing and comprehensive health care.⁶⁵

31. HRW, FEIM, CLADEM and ACPD report that women face arbitrary and discriminatory barriers to make reproductive decisions, to obtain access to contraceptives and to legal abortion, as described in the following paragraph.⁶⁶ FEIM also reports on obstacles regarding access to surgical contraception for men and women, regulated in the legislation. In this regard, FEIM reports that there are still many cases in public hospitals, both provincial and municipal, that have denied the practice based on conscious objection by professionals and authorities and sometimes due to doctors' fear that they will be legally punished in court for malpractice.⁶⁷

32. CLADEM reports that backstreet abortions are a public health problem, and the leading cause of maternal deaths in the country.⁶⁸ Abortion in Argentina is illegal with two exceptions: when carried out in order to "avoid endangering the life or health" of the woman, and when the pregnancy results from the rape of an "idiot or demented woman". ACPD reports, nonetheless, that doctors often refuse to perform legal abortions because of their religious beliefs.⁶⁹ ACPD emphasizes that the current Argentine Government has taken a supportive attitude and that two bills have been submitted to Congress: one would establish the right of any woman to decide to interrupt her pregnancy voluntarily during the first 12 weeks of gestation, and the other would regulate medical procedures in public, private and welfare health centres, maintaining the individual right to objection on conscientious grounds while also affirming that the State is required to provide medical care to women seeking it.⁷⁰ It recommends prompt approval of both bills.⁷¹ CLADEM recommends decriminalizing abortion and guaranteeing free, non-punishable assistance with abortions, sex education at public and private schools, and access for women to public sexual and reproductive health programmes.⁷²

33. The Centro por el Derecho a la Vivienda contra Desalojos (Centre for the Right to Housing against Evictions) (COHRE) indicates that Argentina is undergoing a severe housing crisis with a grave shortage of accommodation and with households in breach of the law, especially as regards

tenancy arrangements. Although the Constitution explicitly protects the right to housing, the State has not yet approved a legal framework establishing what that right implies pursuant to the international obligations that Argentina has assumed. The right to protection from forced eviction is acknowledged only indirectly, through the parts of the Constitution that establish civil rights such as the right to protection from arbitrary interference in private life, the family, the home and correspondence.⁷³ COHRE says that the formulation of housing policy is discretionary, that those affected are not involved, and that the administrative and legal resources required for the homeless to assert their rights are not available. There are no housing policies which take specific account of the circumstances of women separated from their partners, women employed in domestic service or victims of domestic violence.⁷⁴ COHRE urges action to make it easier for low-income sectors to have access to urban land and to housing, and action to limit disproportionate rent increases;⁷⁵ to reduce the number of unofficial settlements, guaranteeing legal security of tenure and encouraging urban development in consultation and collaboration with those living there, and avoiding the use of the criminal justice system to settle housing disputes.⁷⁶ CLADEM and COHRE favour guaranteeing housing policies that take account of the status of women,⁷⁷ in particular women separated from their partners, women employed in domestic service or victims of domestic violence.⁷⁸

34. There have for decades been conflicts over land in rural areas between the peasants or indigenous peoples in possession of the land and businessmen or landowners (mostly foreign investors), with disputes and evictions in which the judiciary may or not become involved, and with the use of threats and/or physical violence by the provincial security forces or, in many cases, by police groups hired by the landowners themselves. COHRE recommends measures to protect villagers from harassment and threats, and support for peasants occupying land in order to regularize land tenancy.⁷⁹

7. Minorities and indigenous peoples

35. In recent years, Argentina has made efforts to take into account the unique situation of indigenous peoples, as noted by Unrepresented Nations and Peoples Organizations (UNPO). The National Institute for Indigenous Issues (INAI), under the authority of the Ministry of Social Development, aims at ensuring the participation of indigenous communities in the management of natural resources.⁸⁰ UNPO notes however that the mechanisms set up by the INAI should be clarified to allow Mapuches to be at the center of decisions concerning the use of their ancestral land.⁸¹

36. CELS indicates that, current legislation notwithstanding, in practice violations of indigenous peoples' rights continue to arise; it emphasizes the importance of encouraging specific action to guarantee rights to land and resources, in particular. It states that the greatest conflicts have occurred in the provinces of Salta, Jujuy, Santiago del Estero, Misiones, Chaco, Neuquén, Río Negro and Chubut.⁸² LWF reports on the status of the Toba indigenous communities and submits a copy of the application against the State that the National Ombudsman is due to submit in connection with living conditions and human rights violations of the population groups living in the region.⁸³

37. The Society for Threatened People (STP) expresses concern about the situation of indigenous peoples of the Gran Chaco and the Mapuche in Patagonia, in particular with regard to their lack of access to adequate health services and medicine, their malnutrition and their land rights.⁸⁴ UNPO indicates that lack of access by the Mapuches to holy sites, shrines and graves due to the privatization of land prevents the full exercise of the traditional Mapuche religion.⁸⁵

8. Migrants, refugees and asylum-seekers

38. CELS points out that the passage of the Migrants Act in 2003 implied formal recognition of the rights of migrants, in particular the rights to health, education, justice and social security. According to CELS, however, many of the rights acknowledged still cannot be asserted for lack of regulation, inadequate publicity policies and a lack of information programmes and training for staff in a variety of areas - migration, security, health, education, and the administration of justice among them. CELS also indicates that national and provincial standards flagrantly contrary to the new Act - establishing illegitimate discrimination on the grounds of people's ethnic origins - are still in force.⁸⁶

9. Human rights and counter-terrorism

39. FIDH also expresses concern about the new Counter-Terrorism Act,⁸⁷ the vague wording of articles 2 and 8 especially.⁸⁸ It calls on Congress to review the Act (No. 26.268), bringing it into line with the principles of lawful punishment, which require a degree of certainty in punishments, and preventing it from being used to suppress popular protest.⁸⁹

40. B'nai B'rith International (BBI) commends Argentina for strengthening its laws governing terrorist financing and for its cooperation with INTERPOL in seeking the arrest of six men charged by the Government with crimes against humanity, for their role in the bombing (on 18 July 1994) of the center of Latin America's largest Jewish community - the Asociación Mutual Israelita Argentina (AMIA - Jewish Argentine Mutual Association). BBI stresses the need for intensified efforts on the part of the Government of Argentina (and other governments) to ensure a thorough investigation and prosecution of those responsible.⁹⁰

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

41. [n/a]

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

42. CELS emphasizes that the steps taken by the Executive and legislature in recent years signal a fundamental change and confirm that the State is pursuing a policy of truth and justice in relation to the crimes committed during the last military dictatorship (1976-1983).⁹¹

43. On the subject of reproductive rights, with special reference to the abortion situation, ACPD points out that the attitude of the present Government has been to support the possibility of finding solutions to this very serious problem.⁹²

Notes

¹ The following stakeholders have made a submission (all original submissions are available in full text on: www.ohchr.org):

Civil Society:

ACPD:	Action Canada for Population and Development, on behalf of the Sexual Rights Initiative, Ontario (Canada).
APDH:	Asamblea Permanente por los Derechos Humanos, Buenos Aires (Argentina)*.
BBI:	B'nai B'rith International, Geneva (Switzerland)*.
CELS:	Centro de Estudios Legales y Sociales, Argentina.
COHRE:	Centro por el Derecho a la Vivienda contra Desalojos, Geneva (Switzerland)*.

CLADEM:	Comité Latinoamericano para la defensa de los derechos de la mujer, Buenos Aires (Argentina)*.
CODESEH:	Comité para la Defensa de la Salud, la Ética Profesional y los Derechos Humanos, Buenos Aires (Argentina).
CDIA:	Colectivo de Derechos de Infancia y Adolescencia.
CHA :	Comunidad Homosexual Argentina, Buenos Aires (Argentina).
ELA:	Equipo Latinoamericano de Justicia y Género, Buenos Aires (Argentina).
FIDH:	Federación Internacional de los Derechos Humanos, Geneva (Switzerland)*.
FEIM:	Fundación para Estudio e Investigación de la Mujer, Buenos Aires (Argentina)*.
FSA :	Fundación Sur Argentina, Buenos Aires (Argentina).
GIEACPC:	Global Initiative to End All Corporal Punishment of Children, London (UK).
GMA:	Grupo de Mujeres de la Argentina-Foro de HIV Mujeres y Familia, Buenos Aires (Argentina).
HRW:	Human Rights Watch, Geneva (Switzerland)*.
LWF:	Lutheran World Federation, Geneva (Switzerland)*.
MDRI-CELS:	Mental Disability Rights International, jointly with the Center for Legal and Social Studies, Washington, D.C. (USA)*.
RSF:	Reporteros sin fronteras, Paris (France)*.
STP:	Society for Threatened Peoples, Göttingen (Germany)*.
UNPO:	Unrepresented Nations and Peoples Organizations.

National Human Rights Institution:

DPN: Defensor del Pueblo de la Nación Argentina, Buenos Aires (Argentina)**.

NB: * NGOs with ECOSOC status. ** National Human Rights Institution with A status.

² ELA, p.1

³ Ibid.

⁴ FSA, pp.2-4. See also CDIA pp.2-3.

⁵ CLADEM, p. 2.

⁶ Ibid, pp.2-3.

⁷ ELA, p.2.

⁸ CLADEM, pp.1-2.

⁹ ELA, p.6.

¹⁰ Ibid , p.3.

¹¹ CELS, p.1

¹² CLADEM, pp.1-2.

¹³ ELA, pp.2-3.

¹⁴ CDIA, p.3-4.

¹⁵ DPNA, p.7.

¹⁶ CHA, pp. 1-5.

¹⁷ ACPD, p 3.

¹⁸ Ibid , p. 4.

¹⁹ Ibid.

²⁰ Ibid.

²¹ DPNA, pp.5-6.

²² CELS, pp. 2-3.

²³ See UPR submissions from CELS, HRW, p.2, APDH, pp. 1-3, GMA, pp. 9-19, and DPN, pp. 2-5.

²⁴ CHA, p.6.

- ²⁵ APDH, 3.
- ²⁶ HRW, p. 2.
- ²⁷ DPNA, pp.2-3.
- ²⁸ GIECP, p.2.
- ²⁹ MDRI-CELS, pp.1-4.
- ³⁰ GIEACPC, p.2.
- ³¹ Ibid , p.1.
- ³² CLADEM, pp.1-2.
- ³³ CLADEM, p.1-2.
- ³⁴ Ibid , p.4.
- ³⁵ ELA, p.6.
- ³⁶ FEIM, p.6.
- ³⁷ APDH, p.5.
- ³⁸ DPNA, p.2.
- ³⁹ APDH, 5.
- ⁴⁰ CLADEM, p.4.
- ⁴¹ HRW, p.3.
- ⁴² See HRW, p. 1, CODESEH, pp.1-9, and CELS, p.1.
- ⁴³ HRW, p.1-2. See also CODESEH, pp. 1-2.
- ⁴⁴ HRW, p.2. See also FIDH submission.
- ⁴⁵ CODESEH, pp. 2-3.
- ⁴⁶ Ibid, pp. 5,7.
- ⁴⁷ CELS, p.1.
- ⁴⁸ CODESEH, p.8.
- ⁴⁹ FIDH, p.6.
- ⁵⁰ FSA, p.5.
- ⁵¹ FSA, pp.5-6.
- ⁵² FSA, pp.5-6.
- ⁵³ CDIA, anexo 1, p.1.
- ⁵⁴ ELA, p. 2.
- ⁵⁵ Ibid., p. 6.
- ⁵⁶ RSF, p. 1.
- ⁵⁷ FIDH, pp. 5-6.
- ⁵⁸ HRW, p. 3.
- ⁵⁹ ELA, pp. 5-6.
- ⁶⁰ CLADEM, pp. 3-4.
- ⁶¹ ELA, p. 4.
- ⁶² CLADEM, p. 4.

- ⁶³ ELA, p. 6.
- ⁶⁴ CDIA, p. 1.
- ⁶⁵ FS, pp. 1-2.
- ⁶⁶ HRW, pp. 2-3. See also FEIM, pp. 3-6, CLADEM, pp. 2-3 and ACPD, pp. 1-2.
- ⁶⁷ FEIM, p. 4.
- ⁶⁸ CLADEM, p. 3.
- ⁶⁹ ACPD, p. 1.
- ⁷⁰ Ibid., p. 2.
- ⁷¹ Ibid., p. 2.
- ⁷² CLADEM, p. 4.
- ⁷³ COHRE, pp. 3, 6.
- ⁷⁴ Ibid., pp. 21-22.
- ⁷⁵ Ibid., pp. 8-11.
- ⁷⁶ Ibid., pp. 8-9.
- ⁷⁷ CLADEM, p. 4.
- ⁷⁸ COHRE, pp. 19-21.
- ⁷⁹ Ibid., pp. 10-11.
- ⁸⁰ UNPO, p. 1.
- ⁸¹ Ibid.
- ⁸² CELS, p. 5.
- ⁸³ See LWF submission.
- ⁸⁴ STP, p. 1-2.
- ⁸⁵ UNPO, p. 2.
- ⁸⁶ CELS, p. 5.
- ⁸⁷ FIDH, p. 3.
- ⁸⁸ Ibid., p. 3.
- ⁸⁹ Ibid., p. 5.
- ⁹⁰ BBI, p. 1.
- ⁹¹ CELS, p. 1.
- ⁹² ACPD, p. 2.
