



## Human Rights Watch

### UPR Submission

### Argentina

November 2007

Argentina has taken important steps to bring to justice former military and police personnel accused of having committed grave human rights violations during the country's "dirty war." Since the Supreme Court struck down the "Full Stop" and "Due Obedience" laws in 2005, two former police officers and one Catholic priest have been convicted.

Inmates are held in unacceptable conditions in Argentina's overcrowded prisons. Inmate violence and brutality by guards are a continuing problem.

### Confronting Past Abuses

Since 2003, Argentina has made significant progress in prosecuting military and police personnel responsible for "disappearances," killings, and torture during its last military dictatorship (1976-1983). President Nestor Kirchner has forcefully encouraged these prosecutions, reinforcing what began as a legal challenge to impunity in the courts. According to the attorney general's office, there are currently more than 250 people in jail facing charges for these crimes.

Several important cases were reopened in 2003 after Congress annulled the 1986 "Full Stop" law, which forced a halt to the prosecution of all such cases, and the 1987 "Due Obedience" law, which granted automatic immunity in such cases to all members of the military except those in positions of command. In June 2005, the Supreme Court declared the laws unconstitutional, and in 2006 two police officers were convicted for "disappearances."

Since 2005 several federal judges have struck down presidential pardons decreed by President Menem in 1989 and 1990 in favor of former officials convicted or facing trial for human rights violations. In July 2007, the Supreme Court declared the unconstitutionality of the pardon in favor of General Santiago Omar Riveros, arguing that such measure cannot be granted when someone is accused of committing crimes against humanity.

In October 2007, Father Christian Von Wernich, a chaplain for the Buenos Aires police during the dictatorship, was sentenced to life in prison for his involvement in dozens of cases, including murders, torture, and abduction.

### **Witness Protection**

The security of witnesses in human rights trials has become a serious concern since the mysterious disappearance in September 2006 of a torture victim who had testified in one of the cases that concluded that year. Jorge Julio López, a 77-year-old construction worker who vanished from his home in La Plata the day before he was due to attend one of the final days of the trial, remains missing.

### **Prison Conditions**

Overcrowding, abuses by prison guards, and inmate violence continue to be serious problems in Argentine prisons. In a landmark ruling in May 2005, the Supreme Court declared that all prisons in the country must abide by the United Nations Standard Minimum Rules for the Treatment of Prisoners.

Although there have been slight improvements in the province of Buenos Aires, the situation remains severe. During the past two years, there was a small reduction in overcrowding. The number of detainees held in police lockups—which for years have absorbed the overflow from the prison system—also decreased. However, one of the causes of overcrowding is the high percentage of criminal suspects sent to prison to await trial, and over 70 percent of prisoners have not been sentenced. The government has built new prisons, but they do not comply with international standards. And although there were

fewer fatal incidents in 2007 than in 2005, prisoners continue to die as a result of preventable inmate violence.

In November 2007, in one of the deadliest incidents in the Argentine prison system, a fire in a jail in Santiago del Estero province caused by prisoners who were reportedly trying to escape killed over 30 inmates.

### **Judicial Independence**

President Kirchner has taken important steps to increase the transparency of Supreme Court appointments by requiring public hearings to debate nominations by the executive branch. Yet he also signed legislation in 2006 that threatened judicial independence by restructuring the Judiciary Council, the body responsible for selecting judges for appointment by the executive branch. The new law increased the governing party's influence on the Council, while diminishing that of judges, lawyers, and academics, thereby altering the balance between political and professional representation on the Council that is mandated by the constitution.

### **Freedom of Expression**

Criminal defamation of public officials remains an offence in Argentinean law. In September 2007, as a consequence of a complaint initiated by the governor of Salta, a journalist was convicted of criminal slander for mentioning in his news program allegations of government corruption.

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 advanced.

### **Access to Legal Abortion**

Women in Argentina face arbitrary and discriminatory barriers to making reproductive decisions and obtaining access to contraceptives and abortion

such as inaccurate or misleading information on contraception, at times propagated by public health workers; lack of sex education in national curriculum; policies that subject women's decision-making to arbitrary extraneous interference; and in practice limited access to legal abortion. This is compounded by unsatisfactory levels of prosecution for sexual violence.

Therapeutic abortions and abortions for women with mental disabilities, who become pregnant as the result of rape, are legal, but women face obstacles even when their right to an abortion is protected by law. For example a 19 year old woman with mental disabilities who became pregnant after being raped could not find a doctor who would perform an abortion, even after the highest court in the province of Entre Rios authorized it in September 2007. The abortion was carried out in another province, after the national health minister intervened. In a separate case doctors in Santa Fe province would not perform a therapeutic abortion to a 20 year old woman with cancer. In May 2007, after she had a c-section when she was over 22 weeks pregnant, both mother and baby died.