

Argentina

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, a Roman Catholic priest, and seven military officials have been convicted.

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

In October 2007 Senator Cristina Fernandez de Kirchner, President Néstor Kirchner's wife, was elected to succeed him as president. She was to take office on December 10.

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 Kirchner 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." In October 2007 Fr. Christian Von Wernich, a chaplain for the Buenos Aires police during the dictatorship, was sentenced to life

imprisonment for his involvement in dozens of cases, including murders, torture, and abduction. In December 2007 Cristino Nicolaides, a military chief, and six military commanders were convicted for their responsibility in the kidnap and torture of six individuals, five of which were “disappeared.”

The security of witnesses in human rights trials has become a serious concern since the disappearance in September 2006 of a torture victim who had testified in one of the cases that concluded that year. Jorge Julio López, age 77, 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.

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

Prison Conditions

Overcrowding, abuses by 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 2006-2007 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 proportion of criminal suspects sent to prison to await trial, who make up over 70 percent of the prison population. The government has built new prisons, but they do not comply with international standards. Although the number of such incidents continued to decrease, prisoners still 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.

Freedom of Expression and Information

Defamation of public officials remains punishable by criminal penalties. After being under debate for several years, a bill to decriminalize defamation has not advanced. 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.

Additionally, a bill giving Argentine citizens the right to information held by public bodies made no progress for a third consecutive year. The lower house approved the bill in May 2003, but the Senate voted for a much-weakened version. In November 2005 the bill was dropped altogether from the parliamentary agenda.

Some provincial governments discriminate in the distribution of official advertising by rewarding local media that provide favorable coverage and punishing those with a critical editorial line. In 2003 the newspaper *Rio Negro* filed a writ with the Supreme Court alleging that the provincial government of Neuquen had drastically reduced its advertisements in reprisal for the newspaper's coverage of a bribery scandal that indirectly implicated the governor. In September 2007 the Supreme Court ruled against the provincial government, stating it had failed to justify why it had abruptly limited official advertising in this newspaper. According to the Court, although there is no right to receive official advertising, a government that grants it may not apply discriminatory criteria in granting or withdrawing it.

Access to Legal Abortion

Women and girls in Argentina face arbitrary and discriminatory restrictions on their reproductive decisions and access to contraceptives and abortion, while sexual violence goes unpunished at times.

Therapeutic abortions and abortions for mentally disabled rape victims are legal, but women face obstacles even when their right to an abortion is protected by law. For example, doctors in Santa Fe province would not perform a therapeutic abortion for a 20-year-old woman with cancer, and in May 2007, after she had a cesarian section when she was over 22 weeks pregnant, both mother and baby died. A mentally disabled 19-year-old 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.

Key International Actors

In proceedings before the Inter-American Commission on Human Rights in 2005, the Argentine government formally accepted partial responsibility for failing to prevent the 1994 bombing of the Jewish Argentine Mutual Association, and for subsequently failing to properly investigate the crime, in which 85 people died. In October 2006 an Argentine special prosecutor accused Iran of planning the attack, and Hezbollah of carrying it out. The following month, a federal judge issued an international warrant for the arrest of former Iranian president Ali Akbar Hashemi-Rafsanjani and eight other Iranian former officials. In September 2007 President Kirchner held before the UN General Assembly that Iran had not collaborated with the Argentine justice system, and in November 2007 the Interpol General Assembly voted to issue six arrest notices.

In August 2007 the government of Argentina admitted its international responsibility before the Inter-American Court of Human Rights in the case of Eduardo Kimel, a journalist who had been sentenced to one year in prison, suspended, and ordered to pay 20,000 pesos (US\$20,000 at that time) in damages for defamation. Kimel had criticized the work of a judge investigating a massacre committed during the last military government. At this writing the case is pending before the Court.

The Inter-American Court continued to monitor the performance of the government in implementing provisional measures ordered by the Court to protect the lives and physical security of prisoners held in the province of Mendoza. In August 2007 the Court held that existing provisional measures remained in place.