



ARGENTINA

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW

28TH SESSION OF THE UPR WORKING GROUP, NOVEMBER 2017

FOLLOW-UP TO THE PREVIOUS REVIEW

During its previous UPR in 2012, Argentina supported recommendations to combat discrimination and violence against women,¹ to guarantee sexual and reproductive rights,² to improve prison conditions,³ to ensure that there is no impunity for the crime of torture,⁴ to achieve truth and justice,⁵ and to ensure respect for the rights of Indigenous Peoples.⁶ Amnesty International welcomes that Argentina provided a mid-term review in 2014 of the state of implementation of the recommendations it supported.⁷ However, serious human rights violations continue to pervade the country.

In 2012, Argentina voluntarily committed to promoting initiatives in the Human Rights Council that seek to increase the protection of migrants and to spearhead discussions on the development and implementation of public policies on the matter.⁸ However, despite this commitment, the government has promoted regressive policies on migrants.

In 2012, Congress approved the creation of a National Preventive Mechanisms in accordance with the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading

¹ A/HRC/22/4, Recommendations: 99.25 (Moldova, Indonesia), 99.47 (France), 99.48 (Greece and Morocco), 99.49 (Netherlands), 99.55 (Spain), 99.59 (Canada).

² A/HRC/22/4, Recommendations: 99.89 (France), 99.94 (Slovenia), and 99.96 (Uruguay).

³ A/HRC/22/4, Recommendations: 99.35 (Germany); 99.36 (Hungary), 99.37 (India), 99.38 (Mexico), 99.39 (Morocco), 99.40 (Slovakia), 99.41 (Slovenia), 99.42 (Spain), 99.43 (Switzerland), 99.44 (Switzerland), 99.45 (Austria).

⁴ A/HRC/22/4, Recommendations: 99.12 (Brazil), 99.13 (Honduras), 99.15 (UK and Northern Ireland), 99.16 (United States of Americas), 99.34 (Belarus, Slovakia, Tunisia, Austria).

⁵ A/HRC/22/4, Recommendations: 99.72 (Peru), 99.73 (Armenia).

⁶ A/HRC/22/4, Recommendations: 99.31 (Bolivia); 99.108 (Greece); 99.109 (Peru).

⁷ Argentina's National Mid-term Report (2014)

⁸ A/HRC/4/22. Voluntary commitments: Argentina committed to promoting the Human Rights Council and initiatives aimed at raising the standard of protection for migrants, and leading discussions on the development and implementation of public policies on the matter (para. 42). This is in addition to accepting the recommendations of 99.114 (Belarus) and 99.115 (Mexico) on social integration of migrants, refugees and asylum seekers.

Treatment or Punishment, as recommended by several States in the 2008 and 2012 reviews.⁹ However, more than four years later, the government has yet to establish the Mechanism and advance the designation of experts to serve on the National Committee for the prevention of torture.

THE NATIONAL HUMAN RIGHTS FRAMEWORK

MIGRANTS' RIGHTS

The Law on Migration No. 25,871, promulgated in 2004 and guaranteeing key human rights, affirms the right to migrate and guarantees access to health, education, justice, and social welfare for all residents, regardless of their immigration status.

In January 2017, the law was reformed through the Necessity and Urgency Decree (N° 70/2017), which introduced barriers to admission and permission to stay of migrants, accelerated expulsion procedures, removed the family unit as a requirement for avoiding expulsion, and restricted access to Argentine nationality. Amnesty is concerned that the Decree has reduced the issue of migration to a debate about national security, which associates migrants with criminals.

The government has justified the reform with reference to security; however, the number of migrants implicated in crimes in Argentina is not significant: less than 6% of the prison population are foreigners. According to official data, of the total number of persons arrested for drugs-related offences in the country, 83% are Argentine and only 17% are foreigners, which corresponds to a total of 1426 foreigners, or 0.06% of the total migrant population in Argentina.¹⁰

CRIMINALIZATION OF ABORTION AND VIOLENCE AGAINST WOMEN

According to Article 86 of the Criminal Code, women and girls for whom pregnancy poses a mental or physical health risk, or whose pregnancy is the result of rape, are entitled to a legal abortion. Although in force since 1921, the wording of this Article is unclear and its inconsistent interpretation results in its discretionary application by judges and health service providers which, in turn, limits the access to legal abortion. In March 2012, the Supreme Court clarified the content of Article 86 establishing that any victim of rape should have access to safe abortion, and that a judicial order is not required for health professionals to carry out this treatment.¹¹

Several UN treaty bodies, including the Committee on the Elimination of Discrimination against Women, the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, have called on Argentina to review and modify its abortion legislation to ensure that women do not need to subject themselves to unsafe abortions which may put their lives at risk.¹²

Amnesty welcomes the launch in July 2016 by the National Women's Council of a new comprehensive National Plan of Action for the Prevention, Assistance and Eradication of Violence against Women for the 2017-2019 period. Amnesty International is concerned that the goals of the National Plan are too wide and

⁹ A/HRC/WG.6/1/ARG/4, recommendations 64.6 (Netherlands), A/HRC/22/4, Recommendations: 99.12 (Brazil); 99.15 (UK); 99.16 (United States)

¹⁰ Ministry of Justice and Human Rights, System of National Statistics about the Execution of Penalties (SNEEP), 2015. <http://www.jus.gob.ar/media/3202712/Infraacci%C3%B3n%20a%20la%20ley%20de%20drogas.pdf>

¹¹ The Declaration of Amnesty International Argentina welcomes the decision of the Supreme Court of Justice that guarantees access to abortion in cases of rape, as of March 13, 2012.

¹² UN Committee on the Elimination of the Discrimination against Women, CEDAW/C/ARG/CO/7, para.33, 2016; CEDAW/C/ARG/CO/6, para. 38; UN Human Rights Committee, CCPR/C/ARG/CO/5, 2016, para. 31, and CCPR/C/ARG/CO/4, para. 13; UN Committee on Economic, Social and Cultural Rights, E/C.12/ARG/CO/3, para. 22.

generic and with performance indicators that are non-specific which, in most cases, will make monitoring difficult.

ACCESS TO INFORMATION

On 14 September 2016, Congress passed a law to provide access to public information (N° 27.275), as recommended in the previous UPR.¹³ The law will enter into force in September 2017 and has yet to be regulated by the executive judicial and legislative branches.

NATIONAL HUMAN RIGHT BODIES

For the past eight years, the National Ombudsman has been without leadership. It is mandated to protect human rights by investigating, documenting, and denouncing human rights violations before the judicial branch; however, the absence of an official defender prevents it from complying with its mandate.

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

MIGRANTS AND REFUGEES

On 30 January 2017, the government published the Necessity and Urgency Decree No. 70/2017 which serves to restrict immigration policies, including Immigration Law No. 25.871.

In August 2016, the National Directorate of Migration and the Ministry of Security announced plans for a detention centre for irregular migrants. This is in breach of current immigration laws¹⁴ and the rights to liberty and freedom of movement, as well as protection from arbitrary arrest and detention.¹⁵

During 2016, the Argentine government announced its willingness to receive 3,000 Syrians, giving priority to families with children. Argentina must now translate this proposal into specific action, not only receiving refugees but also ensuring their local integration.

SEXUAL AND REPRODUCTIVE HEALTH AND VIOLENCE AGAINST WOMEN

Abortion is still criminalized in Argentina. In June 2015, the National Ministry of Health published a new "Guide to Comprehensive Care for Persons with a Right to a Legal Interruption of Pregnancy".¹⁶ Although the Guide "is enforceable throughout the Argentine territory and must be implemented by all institutions, both public and private", only eight of Argentina's 25 jurisdictions have protocols for legal abortions that

¹³ A/HRC/22/4, 99.77 Recommendations (Belgium), 99.78 (Canada), 99.79 (Switzerland), 99.80 (Norway).

¹⁴ Argentina, Law No. 25.871 (2004)

¹⁵ International Covenant on Civil and Political Rights, Article 9(1): Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his [or her] liberty except on such grounds and in accordance with such procedure as are established by law; International Convention on the Protection of the Rights of All Migrant Workers and Members of their Family, 1990 Article 16(1) Migrant workers and members of their families shall have the right to liberty and security of person.

¹⁶ This Protocol reviewed and updated medical, bioethics and legal information contained in the technical guide of 2010. Available at <http://www.msal.gov.ar/images/stories/bes/graficos/000000690cnt-Protocolo%20ILE%20Web.pdf>.

This new version has some outstanding aspects, for example, the use of simple language; the change of the expression "non-punishable abortion" to "legal interruption of pregnancy"; the acknowledgement of changing mainstream thinking towards gender, including trans men as subjects of law who may require protection in line with the national law on gender identity, Law 26.743; a specific definition of legal abortion; and the incorporation of the latest scientific and legal developments as recommended by the World Health Organization and other guidelines established by the Supreme Court in the ruling "f., Al", among others.

correspond with the protocols in the Guide.¹⁷ Another eight states have protocols that further hinder women's access to safe abortion services,¹⁸ and the last nine jurisdictions do not have a protocol.¹⁹

The obstacles that women and girls face in accessing legal abortion include:

- the practice of conscientious objection to abortion by health providers,
- the violation of patient confidentiality standards,²⁰
- the harassment and persecution of women and girls seeking abortion,
- the misuse of the justice system to obstruct the provision of abortions.

It is estimated that between 460,000 and 600,000 clandestine abortions are performed every year in Argentina.²¹

The criminalization of abortion continues to claim the lives of women. In 2014, 290 women lost their lives due to causes related to pregnancy.²² In 2013, such deaths amounted to 243.²³

In 2014, 25-year-old Belén²⁴ was deprived of her liberty for more than two years for having suffered a miscarriage at a public hospital. Despite this being stated in her medical records, she was detained, prosecuted for homicide and condemned to eight years in prison. In June of 2016, the UN Human Rights Committee called on Argentina to review the "case of Belén" and to immediately release her.²⁵ The Committee further stated that women should never be subjected to criminal proceedings or forced to put their lives or health at risk if they need to interrupt their pregnancy.²⁶ In March, 2017 the Supreme Court of

¹⁷ These provinces are: Chaco, Chubut, Jujuy, La Rioja, Misiones, Santa Cruz, Santa Fe, and Tierra del Fuego.

¹⁸ City of Buenos Aires, Córdoba, Entre Ríos, La Pampa, Neuquén, province of Buenos Aires, Río Negro and Salta.

¹⁹ Catamarca, Corrientes, Formosa, Mendoza, San Juan, San Luis, Santiago del Estero and Tucumán.

²⁰ CEDAW Committee General Observations 24 and 33 warned about the relationship between complying with the right to privacy in healthcare, abortion and women's health: "Lack of respect for the confidentiality of information affects both men and women, but it can talk women out of getting advice and treatment, negatively affecting their health and wellness. Therefore, women will be less prepared to get medical attention for her genital diseases, use contraceptive methods or even pay attention to incomplete abortions when she is a victim of sexual or physical violence".

²¹ The Ministry of Health of the Nation estimated the magnitude of clandestine induced abortions in Argentina, Edith Pantelides (Conicet and Cenep-Centre of studies of population) and Silvia Mario (Institute Gino Germani), pp. 111 and 112. Like some other countries of Latin America, Argentina has only an estimated number of clandestine induced abortions every year. This estimate was made at the request of the Ministry of Health of the Nation using two methodologies validated internationally: first, a method based on the statistics of hospital discharges due to complications of abortion and, the second, the residual method. According to the first method, the number of clandestine induced abortions in 2000 was between 372.000 and 447.000, with induced abortions ratio per live births between 0.53 and 0.64: This means more than 1 abortion per 2 births. With the second method, the estimate for 2004 indicates that they were between 486.000 and 522,000 abortions.

²² DEIS, 2015. www.deis.gov.ar

²³ DEIS, 2014.

²⁴ Not her real name but a pseudonym, used at her own request. See more information at <http://www.amnistia.org.ar/rau/argentina3>; <http://www.pagina12.com.ar/Diario/suplementos/las12/13-10537-2016-04-29.html>; <http://www.pagina12.com.ar/diario/sociedad/3-298129-2016-04-29.html>.

²⁵ UN Human Rights Committee, Concluding observations on the fifth periodic report of Argentina, paragraph 11 (UN Doc. CCPR/C/ARG/CO/5). In light of this case, the Committee called for consideration of the decriminalization of abortion.

²⁶ The UN CEDAW Committee, Argentina 2010 final recommendations (Add Full Reference); UN Special Rapporteur on the right of the highest attainable physical and mental health, provisional report, /66/254 from August 3, 2011. The latter has said that States should refrain from using legal restrictions or penal laws to regulate public health that are not

Tucumán has unanimously decided to acquit Belen.

In 2006 the Law for Sexuality Education (No. 26,150) created the national program of Integrated Sexuality Education in 2006.²⁷ However, as of 2015, only eight provinces had passed laws providing for sexuality education²⁸ and a further two provinces had passed resolutions to implement the national program.²⁹ Even in these jurisdictions, there is resistance to integrating sexuality education in the curriculum and to distributing materials and information. In many cases, the materials were changed to include inaccurate content.³⁰

VIOLENCE AGAINST WOMEN

On 3 June 2015, the first mass demonstration against violence against women, #NiUnaMenos, took place in Argentina.

In November 2016, the Special Rapporteur on Violence against Women visited Argentina and drew attention to the "significant deficiencies" to deal with "machismo culture" and femicides (killings of women and girls)³¹. The Special Rapporteur recommended that the state increase the human, technical and financial resources for the National Council of Women.³²

INDIGENOUS PEOPLES

Although there is a number of national and provincial laws to protect the rights of Indigenous Peoples, the Special Rapporteur on the rights of Indigenous Peoples identified "a significant gap between the established regulatory framework on indigenous issues and its actual implementation".³³ Most Indigenous

based on evidence, since they violate the right to health of the people affected and are also contrary to the purposes that justify them.

²⁷ The Autonomous City of Buenos Aires (Law N° 2.110 / 06), Chaco (law N° 5.811 / 06), Entre Ríos (Provincial Law N° 9.501 / 03, includes that sexuality education must adhere to the PNSSYPR), the Rioja (Law N° 8.431 / 08 of Accession to the National Act), Buenos Aires (Law N° 14.744 / 15 in compliance of the national law), Río Negro (Law N° 4.339 / 09 of accession to national law), Santa Cruz (Law No. 3043/09 accession to national law), Misiones (Law VI - N° 129/09 establishing compulsory with national law). See, the difficulties of implementation at the local level in the provinces of San Juan, Rojas, Fabian "Integral Sexuality Education?. Time running the veil", Journal of the National University of San Juan, year IX, N° 56, March 2012 [http://www.revista.unsj.edu.ar/revista56/imagenes/launiversidad_56.pdf]

²⁸ UNICEF Report: "Qualitative Inquiry: National, comprehensive sexuality education program", available at http://www.unicef.org/argentina/spanish/Informe_qualitative_inquiry_program_argentina.pdf. "While [the interviewees] had certain information, it was extremely limited and vague. That is to say, they were completely unaware of the objectives of the act and its scope. They only knew it was "a controversial bill due to opposition from the Church."

²⁹ Formosa (resolution N° 2.181/12 required adherence to the ESI program). Resolution N° 5,249/14 made it compulsory in all educational institutions of the provinces). La Pampa (resolution No. 814/10 created a provincial program of sexuality education, in line with the provisions of the national law).

³⁰ Sexuality education in the province of Salta was first developed by the provincial government in conjunction with conservative organizations and included inaccurate content.

³¹ UN, Special Rapporteur on Violence against Women, "UN Special rapporteur challenges Argentina to step up protection of women in "machismo culture", available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?LangID=E&NewsID=20903>

³² This was also supported by the CEDAW Committee, who was commissioned to promote a permanent coordination between the CNM, the provincial offices and the women's municipal - establishing clear lines of coordination in the field of gender equality work. UN, CEDAW, and observations on Argentina, CEDAW/C/ARG/CO/7, 2016, available only in English http://acnudh.org/wp-content/uploads/2016/12/CEDAW_C_ARG_CO_7_25088_E.pdf. This reference is not according to standards for referencing, He also alerted the state to make sure there were sufficient resources for the creation of updated statistical data for public policy work that sought to prevent and combat gender-based violence.

³³ UN, Assembly General. Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya, A/HRC/21/47/Add.2, 2012, p. 18, ap. 80. Mission to Argentina in 2011.

communities in Argentina do not have "legal recognition of their land for their use or traditional occupation". This, the Special Rapporteur noted was due to the fact that "historically they have been dispossessed of large tracts of their land by ranchers and by the operations of farming, oil and mining companies".³⁴

In 2006, Law 26.160 was enacted, which ordered the suspension of evictions of Indigenous communities and instructed the National Institute of Indigenous Affairs to carry out a survey of land occupied by Indigenous communities. However, 11 years later, little has been advanced surrounding the survey,³⁵ and violent evictions continue to take place.³⁶ In addition, the law does not recognize or advance land titling. As a result, communities are left to arbitrate legal mechanisms to reclaim their land.

In 2009, Javier Chocobar, a member of the Diaguita Indigenous Community, was gunned down while peacefully defending his territory against a landowner who claimed to own the land. To this day he murderer continues to go unpunished.

In January 2017, over 200 gendarmes carried out a lockdown operation, closing off all access points to the Indigenous land inhabited by the Mapuche community (Lof) Cushmanen in the province of Chubut. The local police also subsequently intervened. The community publicly reported the attacks and the repression they had been subjected to, including beatings, use of batons, women having their hair pulled, and intimidation of the children in the community.³⁷ At least 10 members of the community and their allies were arrested.³⁸

The authorities also use legal proceedings against Indigenous Peoples to harass and intimidate them,

³⁴UN, Assembly General. Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya, A/HRC/21/47/Add.2, 2012, p. 12.

³⁵ Official Reports of the General Audit of the nation and of the National Institute of Indigenous Affairs (INAI) carried out the execution of the program and were responsible for the implementation of the general law of the nation, the audit report, and the National Institute of Indigenous Affairs. Program 16 - attention and development of indigenous peoples. The report reveals that until the middle of 2012, they had only concluded with the survey of 4.22% of the lands of indigenous communities in the country. This is true even if we take into account the figures provided by INAI, available at http://www.agn.gov.ar/files/informes/2012_083info.pdf. Information sent by INAI in 2012 indicates that the advancement of the indigenous territorial survey program, including unfinished tasks, is equivalent to 23.95% (approximately 380 relieved communities). See on this subject: 327/12 Note to the Observatory of human rights of indigenous peoples (ODHPI); Without number, addressed to the President of the Association of lawyers of indigenous law (AADI); Note of the pending 92786/12 to the Centro de Estudios Legales y Sociales (CELS). It should be emphasized that data provided by INAI has been controversial from the point of view of various organizations working in the field. For example, see the report by ENDEPA: New warning on the nonperformance of Law 26.160. The gap between the statements and the reality on matters of indigenous territorial rights. Year 2013. Available at: <http://www.slideshare.net/AndreaLandella/segunda-advertencia-de-endepe-sobre-la-ley-26160>

³⁶ The independent expert of the United Nations on racism, Mutuma Ruteere, said it "Most alarming are the reported trends of repression, in several parts of the country, against the mobilization by indigenous groups to claim their rights; and the reprisals against indigenous civil rights defenders and leaders as well as members of their families" trying to claim their rights, as well as towards reprisals against the defenders of the rights of minorities and leaders, and members of their families. Press release of the UN rapporteur on racism following his visit to Argentina between 16 and May 23, 2016. May 24, 2016. Available at <http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=20008&LangID=S#sthash.IYxhzHDu.dpuf>

³⁷ The women and children reported that they tried to protect themselves within the main 'ruca house' (a traditional Mapuche communal house) but the gendarmes kept them locked in there before forcing their way in. Some of the statements reported that the children were terrified by the presence of the armed men, women were dragged across the ground, houses were destroyed and animals stolen and killed.

³⁸ AI, Urgent Action, AMR 13/5477/2017; available at <http://www.amnestyusa.org/sites/default/files/uao0817.pdf>. Mapuche testimonies described that children were terrified of the presence of armed men, and women were dragged across the floor. In addition, they reported that their homes were destroyed, items were stolen and their animals killed.

including accusations of sedition, resisting authority, committing thefts, and attempted killings and injuries. The anti-terrorist law (N° 26.734), in force since 2011, is also a threat.

In the last 20 years, there has been a notable increase in forestry and extractive projects, such as mega-mining, agribusiness, and oil. Some of these have infringed the rights of Indigenous Peoples, including their right to be consulted and to obtain their free, prior and informed consent,³⁹ despite accepting a recommendation in this regard during the last UPR.⁴⁰ In 2000, there were 40 mining projects in the country; in 2015, this had increased to 800 such projects.⁴¹

One emblematic case that has been reported to Amnesty International is the exploitation of the Vaca Muerta oilfield,⁴² seated partly on the land of the Indigenous community Lof Campo Maripe, when an oil plant was created without prior consultation or obtaining the free and informed consent of the community. According to information received by Amnesty International this situation triggered a conflict involving more than 27 Indigenous communities living in the area. On 10 January 2016, a new operating plan attracting investments to the oil on Vaca Muerta land was agreed upon between the government of the province of Neuquén, oil unions and companies in the sector – but without Indigenous participation.⁴³

FREEDOM OF EXPRESSION AND SOCIAL PROTEST

On 17 February 2016, the Ministry of Security issued the "Action Protocol for State Security in Public Manifestations"⁴⁴ which imposes excessive and disproportionate restrictions to the right to freedom of expression and peaceful assembly as set out in international human rights laws.⁴⁵ The Protocol is used to criminalize people for peacefully exercising their right to demonstrate.⁴⁶ In the past few years, Amnesty

³⁹ Visit by the Special Rapporteur to Argentina, press statement to the media of the UN Special Rapporteur on the rights of indigenous peoples at the conclusion of his visit to Argentina, December 2011, see <http://unsr.jamesanaya.org/statements/declaracion-a-los-medios-del-relator-especial-de-las-naciones-unidas-sobre-los-derechos-de-los-pueblos-indigenas-al-concluir-su-visita-a-argentina>

⁴⁰ A/HRC/22/4, recommendation 99.109: continue with efforts to enhance the participation and consultation of indigenous peoples on policies that affect them (Peru);

⁴¹ Official data of the Ministry Secretariat of agroindustry and mining (as of 2015). See also, Dario Aranda, "Land Razed Land Scorched." "Oil, soybean, pasturas and megaminería." South American, by 2015.

⁴² In 2011, YPF-Repsol announced the discovery of the Vaca Muerta oilfield. Its oil production plans used the much-debated fracking technique (hydraulic fracking uses pressurized water and chemicals to break up rock), which faces serious questions about its environmental impact. Vaca Muerta covers an area of 30 thousand square kilometers (3 million hectares). Besides Chevron, negotiations are at an advanced stage with Total, Exxon, Shell, Wintershall and Petronas. In September of 2014, YPF announced a production of 20,000 barrels per day of shale oil in the oilfield.

⁴³ Available at: <http://www.lanacion.com.ar/1974553-macri-anuncio-el-plan-de-explotacion-de-vaca-muerta-esto-va-a-ser-una-revolucion-del-trabajo>.

⁴⁴ The particularity of this document is that it was agreed upon at a meeting of Security Ministers but lacks identification, due to a number of the resolution.

⁴⁵ OAS, Inter-American Convention on Human Rights, Art. 13; International Covenant on Civil and Political Rights, Art. 19; European Convention for the Protection of Human Rights and Fundamental Freedoms, art. 10.

⁴⁶ Ministry of security of the nation, protocol of action for the forces of state security in public manifestations, article 1 "...the chief of operational security will give the order through loudspeakers or megaphones that protesters must withdraw from blocked transit routes, and must be in a certain area to exercise their constitutional rights, but still allowing for freedom of movement. It will warn that in breach of this instruction, they will violate article 194 of the criminal code, and where appropriate, in contraventions referred to in each jurisdiction... ". The legal status of this protocol is unknown since it does not correspond with any resolution and has not been published in the Official Bulletin. However, it was released by the Ministry of Public Security. Amnesty International is concerned with Security Minister Patricia Bullrich's talk in the media, where she hints at the repression of social protests: "If they don't go in 5 or 10 minutes, they are going to get it." (<http://www.lanacion.com.ar/1872122-patricia-bullrich-defendio-el-el-protocolo-antipiquetes-si-no-se-van-en-5-o-10-minutos-los-vamos-a-sacar>).

International has received reports of several acts of violent repression against social movements.⁴⁷

On 16 January 2016, community leader Milagro Sala was arrested during a protest in the Plaza Belgrano in San Salvador de Jujuy, in the Northwest of the country. Earlier, on 15 December 2015, Milagro Sala had been detained by the government of the province of Jujuy for a Red de Organizaciones Sociales de Jujuy (ROS) (a grassroots organizations network) protest.⁴⁸ On 27 October 2016, the UN Working Group on Arbitrary Detention determined that Milagro Sala's arrest was arbitrary and requested that "the government release her immediately".⁴⁹ However, Milagro Sala remains in detention, in violation of Argentina's international commitments⁵⁰.

IMPUNITY FOR PAST CRIMES

The last few years have seen important progress in condemning those responsible for crimes under international law and human rights violations during the 1976-1983 military dictatorship. However, some serious delays continue, including due to the disorganization and inefficiency in managing the cases. New challenges have emerged as well, such as the investigation into the participation of private actors, such as companies' owners and staff, in the abuses during the dictatorship and the prosecution of offences of sexual violence committed during the dictatorship.⁵¹

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Argentina to:

Follow up to the previous review:

⁴⁷ On December 22, 2015, the national police cracked down violently on those peacefully demonstrating for claim to their jobs against the company Cresta Roja. According to public reports, security forces made excessive use of force, using tanks, fire hydrants and rubber bullets that hurt the physical integrity of protesters. On December 29, there was another repression in Villa 1-11-14 from Bajo Flores. The statements of the witnesses detailed that the National Gendarmerie advanced on neighbors and fired indiscriminately in an area where there were children and adolescents. The Office of Institutional Violence (Procuvin), dependent on the Ministry of the Public Prosecutor, stepped in to investigate the incidents where at least 11 people, including children, were injured by rubber bullets.

⁴⁸ Index: AMR 13/5612/2017, Argentina, February 2017. Notwithstanding the vagueness of the indictment and the absence of a clear and precise description of the facts charged, the accused is accused of two penal crimes: organizing a protest (interpreted as the crime of dulling circulation, where she would be committed - article 209 of the Criminal Code) and of rejecting a measure of provincial government-related work (interpreted as sedition, art. 230 of the CP). Despite having been ordered to release her, she has since been accused of other criminal actions in order to be kept detained.

⁴⁹ UN GTDA, A/HRC/WGAD/2016, October 21, 2016. Opinion No. 31/2016 on miracle Amália Angela Hall (Argentina, Republic). Available at <http://www.ohchr.org/Documents/Issues/Detention/Opinions/Session76/31-2016.pdf>. The Group argued that there was a network of "consecutive charges" to hold her deprivation of liberty indefinitely in time; and it was concluded that the State prevented her right to defense by violating her judicial independence. To analyze the causes by which she was detained, there are no legal elements to justify her continued detainment.

⁵⁰ Argentina has ratified the International Covenant on Civil and Political Rights and as a state party, it must cooperate effectively with the Committee and give full consideration to its determinations.

⁵¹ UN, CDH, Concluding observations on Argentina, CCPR/C/ARG/CO/5/24580/S. 28. The Committee reiterates its recommendation that the State party step up its efforts to investigate all the human rights violations committed in the past, including crimes committed by the owners and/or staff of companies that are suspected of having been involved in the commission of crimes against humanity. The State party should provide the human and economic resources required to ensure that, as a result of these investigations, the responsible parties are identified, prosecuted and punished in a manner that is commensurate with the gravity of their crimes and that victims are provided with redress." 107.

- Ensure that the law establishing the National Preventive Mechanism, as required under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, is implemented without further delay.

MIGRANTS AND REFUGEES

- Ensure access to fundamental human rights for all people, including foreign residents in Argentina, regardless of their immigration status;
- Ensure due process and effective access to justice and remedies for migrants and refugees;
- Ensure that detention and alternatives to detention that restrict the freedoms of migrants are based on law and are necessary and proportionate in all situations;
- Abolish the Necessity and Urgency Decree (N° 70/2017) and establish a transparent debate in the Congress on the migratory legal framework;
- Develop a program of local integration of refugees.

SEXUAL AND REPRODUCTIVE HEALTH AND VIOLENCE AGAINST WOMEN

- Adopt all necessary policies and protocols and allocate adequate resources to ensure access to legal abortion is available on equal terms throughout the country;
- Adopt a registration and consultation policy for Legal Interruption of Pregnancy services throughout the country, and compile disaggregated data on its implementation;
- Ensure that women and girls are not subject to criminal sanctions for seeking or obtaining an abortion under any circumstances;
- Initiate a serious and informed debate in Congress on the decriminalization of abortion, in line with international law and standards;
- Ensure the implementation of the Law of Integral Sexuality Education throughout the country, and monitor its implementation in all provinces;
- Ensure youth-friendly, comprehensive health services are available throughout the country, including the provision of sexual and reproductive health services and information, legal abortion, and STI/HIV counselling, testing and treatment, with respect to patient privacy and confidentiality, informed consent and in accordance with 'evolving capacities' of young people.

VIOLENCE AGAINST WOMEN

- Ensure the effective implementation of the National Plan of Action for Prevention, Assistance and Eradication of Violence against Women 2017-2019, established by Law 26.485;
- Implement a register of victims of violence against women with disaggregated data to enable better and more effectively designed public policies;
- Assign a specialized role in the National Council for Women, which has political priority, links to different agencies of the State, and using an integrated approach to violence against woman, and which has sufficient human, financial and institutional resources.

INDIGENOUS PEOPLES

- Ensure that Emergency Act No 26.160 is fully implemented and respected in order to prevent the eviction or removal of Indigenous Peoples from their traditional lands;
- Advance the recognition of Indigenous community's legal property, through a special law created and agreed upon with Indigenous communities; developing a comprehensive policy of consultation and free, prior and informed consent.
- Respect the right of Indigenous Peoples to consultation and free, prior and informed consent before

proceeding with legal and administrative measures that may affect their rights;

- Investigate reports of persecution and criminalization of Indigenous communities, ensure due process and fair trial on criminal cases, and repeal the anti-terrorist law as far as Indigenous communities are concerned;

FREEDOM OF EXPRESSION AND SOCIAL PROTEST

- Ensure the right to freedom of expression, association and peaceful assembly, preventing regressive regulations that disproportionately limit or restrict those rights;
- Combat stereotypes that stigmatize community leaders;
- Develop and make public the rules about the use of force by officers while policing demonstrations, in line with the UN Code of Conduct for Law Enforcement Officials; the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; and the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions;
- Release community leader Milagro Sala as called for in the Opinion 31/2016 of the UN Working Group on Arbitrary Detention.

IMPUNITY FOR PAST CRIMES

- Intensify efforts to bring to justice, without further delay, all those suspected of criminal responsibility for crimes under international law and human rights violations during the military dictatorship, including of private actors, such as companies' owners and/or staff;
- Protect the safety and physical integrity of witnesses and defendants in these proceedings, ensuring full and effective implementation of measures of protection.

ACCESS TO INFORMATION

- Ensure the full implementation of the Access to Public Information Law in all the three branches of the state and take steps toward regulating the law.

HUMAN RIGHT BODIES

- Designate a new Ombudsperson to allow the body to carry out its mandate fully and effectively.