

ARGENTINA 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Argentina is a federal constitutional republic. Cristina Fernandez de Kirchner was reelected to the presidency in October 2011 in multiparty elections that media and various nongovernmental organizations (NGOs) described as generally free and fair. Security forces reported to civilian authorities but occasionally acted at lower levels independently of civilian control.

The principal human rights problems included reports of torture by provincial police, harsh prison conditions, and increased incidence of gender violence.

Other human rights problems included use of excessive force by police; occasional arbitrary arrest and detention; prolonged pretrial detention; actions that risk impairing freedom of the press; continued concerns about judicial efficiency and independence; official corruption; child abuse; sex trafficking and forced labor, primarily within the country; continuing discrimination against and infringements on the rights of indigenous people; and child labor.

Judicial authorities prosecuted a number of officials who committed abuses during the year; however, some officials engaged in corruption or other abuses with impunity.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings; however, there were reports of deaths as a result of the police's use of unwarranted or excessive force.

In November the NGO Coordinator Against Police Repression reported that security forces using excessive force killed 182 persons between mid-November 2011 and mid-November 2012. The Center for Legal and Social Studies (CELS) reported 92 deaths as a result of police using unwarranted or excessive force in the city of Buenos Aires and Buenos Aires Province during the first half of the year.

b. Disappearance

There were no reports of politically motivated disappearances.

Authorities continued to investigate and prosecute individuals implicated in disappearances, killings, and torture committed during the 1976-83 military dictatorship (widely referred to as the “Dirty War”). Investigations into the “systematic plan” of the military dictatorship, including the appropriation of children of detainees and the killing of detainees on “death flights,” continued or were initiated during the year. CELS estimated that 373 judicial investigations were underway by early October, involving 1,943 persons charged for crimes against humanity committed during that period. Of the 787 individuals indicted, 444 remained in pretrial detention at year’s end. According to the Attorney General’s Office for Follow-up on Crimes Against Humanity, during the year the courts convicted 66 people for committing human rights abuses during the 1976-83 period and continued trials that were suspended in 1989-90 when the government issued a blanket pardon. For example, in October a court concluded a 2006 investigation into the murder of 16 political prisoners in Trelew, Chubut Province, convicting and sentencing to life imprisonment three former military members.

An additional 19 cases associated with that period involving 277 accused continued at year’s end, including the final phase of a criminal trial in which 45 former military members faced charges for human rights violations committed against 417 victims at La Perla detention center in Cordoba Province.

In November a federal court began the final phase of a trial involving 68 individuals accused of committing human rights violations against 789 victims at the Navy School of Mechanics, the most notorious secret detention center operating during the Dirty War era. Defendants included former navy officials, former law enforcement agents, and two civilians along with pilots and crew who participated in the so-called “death flights.”

Judicial authorities continued to investigate cases of kidnapping and illegal adoption of children born to detained dissidents by members of the former military dictatorship. In July former president Jorge Rafael Videla as well as Reinaldo Bignone and Jorge “Tigre” Acosta were sentenced to life imprisonment for kidnapping the babies of mothers who “disappeared” during the Dirty War era. The NGO Las Abuelas de la Plaza de Mayo reported that during the year three persons illegally adopted by former military officials were identified and made aware of their backgrounds; this increased the number of persons so identified to 108 of an estimated 500 born to detained and missing dissidents during the former

military dictatorship. In October the general prosecutor opened a Specialized Office for Investigation of Children's Kidnappings.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits torture and other cruel, inhuman, or degrading treatment or punishment and provides penalties for torture similar to those for homicide. However, international organizations, CELS, the Office of the National Public Prosecutor (NPPO), and the Buenos Aires Provincial Memory Commission's Committee Against Torture (an autonomous office established by the provincial government) reported complaints of torture by provincial and federal prison officials. In late November the Chamber of Deputies passed a law to create a national mechanism for the prevention of torture.

In April the UN Special Rapporteur on Torture visited Argentine prisons at the request of CELS and the Buenos Aires Provincial Memory Commission's Committee Against Torture. The report was not available by year's end.

On July 19, an anonymous video surfaced on the Internet that appeared to show police officers in the province of Salta brutally interrogating two detainees, using a plastic bag to suffocate the detainees. Salta governor Juan Manuel Urtubey denounced the mistreatment of prisoners, ordered the detention of six police from the provincial antidrug unit, and promised a thorough investigation. The case continued at year's end.

According to a June 2011 report of the Buenos Aires Provincial Memory Commission's Committee Against Torture, practices such as beatings, the use of a cattle prod, cold water showers, and forced isolation within Buenos Aires prisons remained common.

In October the province of Buenos Aires created a committee to oversee police and penitentiary activity.

Prison and Detention Center Conditions

Prison conditions often were harsh. Inmates in many facilities suffered from extreme overcrowding, poor nutrition, inadequate medical and psychological treatment, inadequate sanitation, limited family visits, and frequent degrading

treatment, according to various reports by human rights organizations and research centers. Prisoners received potable water.

Physical Conditions: The number of prisoners in Buenos Aires provincial penitentiaries exceeded facility capacity by an estimated 92 percent, according to a 2010 report by the provincial Council of Defenders.

Several inmates died in provincial and federal prisons during the year. CELS visited penitentiaries in March to monitor prison conditions in response to five deaths reported in the San Martin district of Buenos Aires Province. It was reported that several inmates possessed knives allegedly provided by penitentiary officials that were used to attack other prisoners. At least four additional prisoners were killed following CELS's visit. CELS and the Provincial Memory Commission filed a petition before the Inter-American Commission on Human Rights (IACHR) in April.

NGOs and media reports alleged recurring poor prison conditions in several provinces. In May, Cristian Ibazeta was attacked and killed in his cell in a Neuquen penitentiary. As a witness against 27 penitentiary guards, Ibazeta's testimony had confirmed reports of torture against detainees and mistreatment of family members.

Women were held separately from men, and the law permits children to stay in prison with their mothers until the age of four. According to the Federal Penitentiary Service, 872 women were in federal prisons as of April. Women constituted 9 percent of the overall prison population, which included approximately 30,000 in the Buenos Aires provincial prisons and approximately 10,000 in federal prisons. CELS estimated that 60 percent of the women incarcerated in Buenos Aires provincial prisons were in pretrial detention or awaiting sentencing, and many were held with convicted prisoners. In general men's prisons were more violent, dangerous, and crowded than women's prisons.

Overcrowding in juvenile facilities often resulted in minors' being held in police station facilities, even though some NGOs and the National Prison Ombudsman warned the law prohibited doing so.

Administration: Information on the adequacy of recordkeeping and alternatives to sentencing for nonviolent offenders was unavailable. Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities

without censorship and to request investigation of credible allegations of inhumane conditions. However, some local NGOs noted that access to a public defender was sometimes limited and that prisoners occasionally did not submit complaints to authorities due to fear of reprisal.

In November Congress passed a comprehensive mechanism to investigate and monitor prison and detention center conditions. The NPPO, an autonomous governmental institution, serves as an ombudsman on behalf of prisoners and detainees. However, local human rights observers reported that the NPPO did not have jurisdiction in all detention facilities and lacked necessary authority to carry out its functions.

Monitoring: The government permitted independent prison visits by local and international human rights observers, and such visits took place during the year. In April the UN Subcommittee on Prevention of Torture visited detention centers to investigate prison conditions.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions; however, police reportedly arrested and detained citizens arbitrarily on occasion.

Role of the Police and Security Apparatus

The federal police normally have jurisdiction for maintaining law and order in the federal capital and for federal crimes in the provinces. Other federal police authorities include the airport security police, Gendarmerie, Coast Guard, and Bureau of Prisons. All federal police forces fall under the authority of the Security Ministry. Additionally each province and the city of Buenos Aires has its own police force that responds to a provincial (or city) security ministry or secretariat. Individual forces varied considerably in their effectiveness and respect for human rights. As a measure to combat growing insecurity, during the year Security Minister Nilda Garre dispatched Gendarmerie and Coast Guard units to assume urban policing duties in the city of Buenos Aires.

The federal security forces have the authority to conduct internal investigations into alleged abuses and to fire individuals who have allegedly committed a human rights violation. The federal government can also file complaints with the federal courts; provincial governments may do the same for provincial security forces.

Members of security forces convicted of a crime were subject to stiff penalties. Generally authorities administratively suspended officers accused of wrongdoing until completion of an investigation. Authorities investigated and, in some cases, detained, prosecuted, and convicted the officers involved.

Arrest Procedures and Treatment While in Detention

Individuals generally were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official; police may detain suspects for up to 10 hours without an arrest warrant if the authorities have a well founded belief that the suspects have committed, or are about to commit, a crime or are unable to determine the suspected person's identity. Human rights groups reported that police occasionally arrested persons arbitrarily and detained suspects longer than 10 hours.

The law provides a detainee with the right to a prompt determination of the legality of the detention, which entails appearance before a lower criminal court judge, who determines whether to proceed with an investigation. There were some delays in this process and in informing detainees of the charges against them.

The law provides for the right to bail except in cases involving narcotics, violent crimes, and firearms violations.

Detainees were allowed prompt access to counsel, and public defenders were provided for detainees unable to afford counsel, although such access sometimes was delayed due to an overburdened system.

Pretrial Detention: The law provides for investigative detention of up to two years for indicted persons awaiting or undergoing trial; the period may be extended by one year in limited situations. The slow pace of the justice system often resulted in lengthy detentions beyond the period stipulated by law. CELS reported that 53 percent of prisoners at the national level were awaiting judgment and that nearly 60 percent of detainees in Buenos Aires Province were either in pretrial detention, awaiting sentencing, or awaiting the appeals process. According to several human rights organizations, 30 percent of pretrial detainees were eventually acquitted. A convicted prisoner usually receives credit for time already served.

e. Denial of Fair Public Trial

The law provides for the right to a fair trial, and the independent judiciary generally enforced this right. However, judicial scholars continued to report inefficiencies and delays in the judicial system. According to some local NGOs, judges in some federal criminal and ordinary courts were sometimes subject to political manipulation.

Delays, procedural logjams, long gaps in the appointment of judges, inadequate administrative support, and general inefficiency hampered the judicial system. NGOs also criticized all three branches of the government for inefficiencies in the process for selecting judges. Judges' broad discretion as to whether and how to pursue investigations contributed to a public perception that many decisions were arbitrary.

Trial Procedures

Trials are public. In federal courts and some provincial courts that have an accusatory system of criminal justice, defendants enjoy a presumption of innocence and have the right to appeal, have legal counsel, and call defense witnesses. If needed, a public defender is provided at public expense when defendants face serious criminal charges. During the investigative stage, defendants can submit questions in writing to the investigating judge. A panel of judges decides guilt or innocence. Although defendants and their attorneys have access to government-held evidence, according to local NGOs, in practice they sometimes experienced obstacles or delays in obtaining such evidence. Lengthy delays in trials occurred nationwide, with many cases taking five or more years to resolve.

Federal and provincial courts continued the transition to trials with oral arguments in criminal cases, replacing the old system of written submissions. Although the 1994 constitution provides for trial by jury, implementing legislation was not passed by year's end. In Cordoba Province, however, defendants accused of certain serious crimes have the right to a trial by jury.

An unofficially organized juvenile justice system operated in eight of 18 districts in Buenos Aires City. It provides minors between the ages of 16 and 18 with the same procedural rights as adults and limits sentences to 180 days in prison.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Citizens have access to the courts to bring lawsuits seeking damages or the protection of rights provided by the constitution. Some observers criticized the government for seeking to pressure judges and shape judicial outcomes to benefit the government. In early December, Justice and Human Rights Minister Julio Alak sought to have the judges of a civil and commercial court recused from the Media Law case in a reported effort to prevent a ruling contrary to government interests. President Fernandez de Kirchner accused the court of favoring corporate interests against the country's democracy after the court ruled to extend an injunction in the Clarin case (see section 2.a.).

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

NGOs denounced intelligence activities carried out by federal law enforcement agencies, which they claimed violated the privacy of activists and demonstrators. In February, Security Minister Garre ordered that investigations be conducted regarding these claims. By year's end the government did not release details on the outcome of the investigations.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and press; with exceptions, the government generally respected these rights in practice. Independent newspapers, radio and television outlets, and Internet sites were numerous and active, expressing a wide variety of views. Private media outlets were independent from the national and provincial governments.

Freedom of Press: Some independent observers claimed that in its efforts to compel Clarin Group to comply with the 2009 Media Law and divest itself of excessive media holdings, the government intended to muffle an important and often critical media voice and therefore limit freedom of expression. The Clarin Group obtained an injunction on several key articles of the law pending an appeals court ruling on their constitutionality.

The Inter American Press Association, Argentina's Association of Media Companies, and other organizations expressed concern about the government's conflictive relationship with and indirect censorship of certain media outlets. Many organizations complained that placement of official advertising was arbitrary and that media outlets critical of the government received just a small fraction, if any, of the total public advertising budget. The executive branch did not implement the 2011 Supreme Court ruling (itself upholding a 2009 decision) ordering the government to apply reasonable balance in its distribution of advertising. Official advertising in media outlets generally supportive of the government increased by 240 percent according to a private survey during the year. In 2011 the government spent approximately 400 million pesos (\$82 million) on public advertising, 24 percent more than in 2010.

Violence and Harassment: The Argentine Journalism Forum (FOPEA), an NGO promoting freedom of expression, reported 134 attacks on freedom of expression between January and November, up 17 percent from the same period in 2011. On August 9, during a speech broadcast on the public television channel, the president criticized the reporting of *Clarín* journalist Marcelo Bonelli regarding the newly nationalized oil company YPF, accusing him of inventing negative information about the new YPF because his wife had lost a lucrative contract with the company.

On August 24, the domestic trade secretary suspended the NGO Free Consumers from the National Register of Consumers Associations because it published information indicating that the cost of a basic consumer basket increased at a rate approximately three times the official figure of the National Institute of Statistics and Census. In December Ricardo Echegaray, the director of the Federal Administration of Public Revenue (AFIP), filed a civil lawsuit against journalist Matias Longoni following his investigation into corruption in the National Office of Agricultural Commercial Control while Echegaray was director. In August film director Eliseo Subiela publicly criticized the government's restrictions on foreign exchange purchases. Immediately afterward, the director of the AFIP tax agency accused Subiela of tax evasion and initiated an investigation which a judge later dismissed.

On April 2, members of a television crew from a show called *CQC* were beaten and expelled from a beach where they were trying to interview the mayor of Pinamar City, Blas Altieri. Two city officers were fired.

On August 18 and 19 and on October 29, members of the Newspapers Vendors Union blocked entrances to the printing facilities of major national dailies, *Clarín* and *La Nación*, preventing the exit of newspaper distribution trucks. The union's leader was quoted in media reports as having the government's backing to block the plants.

Censorship or Content Restrictions: On October 31, the National Statistics Institute denied access to reporters from *Clarín* and *La Nación* to the presentation of the results of the 2010 National Census. FOPEA issued a complaint against the government for discriminating against newspapers that report inflation statistics that contradict official government numbers.

Journalist Jorge Lanata accused provincial governments aligned with the president, including Tucuman and Rio Negro, of censoring his television show *Periodismo Para Todos* by not allowing the local public channels to air the show.

Actions to Expand Press Freedom

The government sought to limit what it considered to be monopolistic practices in the media industry through Article 161 of the 2009 Media Law, which reduces the number of broadcast licenses an individual or company can hold from 24 to 10 and bars cable providers from owning open-air television channels. Many observers considered the risk that the government would take a discretionary approach to implementation of the law--to favor friends and undermine critics--its most problematic aspect. At year's end the Clarín Group's petition to appeal to the Civil and Commercial Court of Appeals suspended the application of Article 161.

Internet Freedom

There were no generalized restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms without judicial oversight. Individuals and groups could engage in the expression of views via the Internet, including by e-mail and social networks. On October 19, a court ordered national Internet providers to block access to certain Web sites that explained how to unlock government-provided educational Net books. The International Telecommunication Union reported that 38 percent of households had access to the Internet and 48 percent of individuals used the Internet in 2011.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

Protection of Refugees

Access to Asylum: Laws provide for the granting of refugee status, and the government has established a system for providing protection to refugees.

During the year the National Committee for Refugees granted refugee status to 85 of 1,172 individuals with asylum cases still pending; a total of 89 petitions were filed during the year. Decisions on asylum petitions may take up to two years.

Temporary Protection: The government also provided temporary protection for humanitarian reasons to 107 out of 129 persons who requested it.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: In October 2011 voters reelected President Cristina Fernandez de Kirchner of the Front for Victory coalition in polling described by media and various NGOs as free and fair. In concurrent legislative elections voters elected one-half of the members of the Chamber of Deputies representing all 24 provinces and one-third of those in the Senate representing eight provinces. Local observers considered these elections generally free and fair.

Participation of Women and Minorities: Decrees provide that at least one-third of the candidates on election slates for both houses of congress must be women. There were 29 women in the 72-seat Senate and 96 women in the 257-seat Chamber of Deputies. The president, two of the seven Supreme Court justices, and three cabinet ministers were women.

No known ethnic or racial minorities were in the national legislature. There were no known indigenous, ethnic, or racial minorities in the cabinet or on the Supreme Court.

On November 1, the president signed into law legislation reducing the minimum voting age from 18 to 16. The law provides those under age 18 the option to vote but without the mandate applicable to adult participation.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials; however, multiple reports alleged that executive, legislative, and judicial officials engaged in corrupt practices with impunity, suggesting a failure to implement the law effectively.

Weak institutions and an often ineffective and politicized judicial system undermined systematic attempts to curb corruption.

Cases of corruption were reported in some security forces. The most frequent abuses included extortion of, and protection for, those involved in drug trafficking and prostitution. In October judicial investigations forced the resignation of the

Santa Fe police chief due to accusations of bribery. A provincial government investigation continued at year's end.

In a case dating to 2007, a court in December convicted former economy minister Felisa Miceli of embezzling 100,000 pesos (\$20,000), sentenced her to four years' imprisonment, and ordered her to reimburse the funds.

Internal controls to counter police abuses remained weak, although Security Minister Garre took steps to combat corruption in the security forces, notably within the Federal Police Force. In late October eight police chiefs from Buenos Aires City were convicted of bribery and received sentences ranging from six to 10 years' imprisonment.

Allegations of corruption in provincial as well as in federal courts remained frequent.

In February, Vice President Amado Boudou was accused of using his former position as economic minister to benefit a firm in which he had a financial interest. The investigation by the Federal Court of Appeals in Buenos Aires continued at year's end.

The investigation of fraud and misuse of public funds opened in June 2011 involving Sergio Schoklender, the financial manager of the NGO Madres de la Plaza de Mayo, remained pending at year's end. The NGO had received approximately 765 million pesos (\$156 million) through a government contract to build low-income housing. Authorities accused Schoklender of using a construction company to embezzle the public funds, and, in a parallel case, national authorities were investigated to determine if they were complicit in the misuse of the funds. Schoklender alleged government corruption in the allocation of funding for public works, claiming that the funds were sometimes used to pay for political campaigns and that projects were often awarded based on bribes. Schoklender remained free pending a court decision.

In mid-August a bribery case resumed that involved former president Fernando de la Rúa and senior cabinet officials. The trial continued at year's end.

Public officials are subject to financial disclosure laws, and the Ministry of Justice's Anti-Corruption Office (ACO) is responsible for analyzing and investigating federal executive branch officials based on their financial disclosure forms. Laws provide for public disclosure, but not all agencies complied, and

enforcement remained a problem, since public officials were not sanctioned for noncompliance. The ACO is also responsible for investigating corruption within the federal executive branch or in matters involving federal funds, except for funds transferred to the provinces. As part of the executive branch, the ACO does not have authority to prosecute cases independently, but it can refer cases to other agencies or serve as the plaintiff and request a judge to initiate a case.

While the country does not have a law that provides for public access to government information, a presidential decree provides for access to public documents and information that fall within the jurisdiction of the executive. In early December the Supreme Court upheld the right to access public information and ruled that refusal to provide it is an arbitrary and illegitimate behavior in violation of democratic principles. According to local NGOs, authorities rejected arbitrarily several freedom of information requests during the year, and in their April report to the UN Human Rights Council as part of the Universal Periodic Review, the Civil Rights Association and eight other NGOs outlined serious setbacks in the implementation of freedom of information legislation since late 2009.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials usually were cooperative and generally responsive to their views.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, sexual orientation, disability, language, or social status, and the government generally enforced these prohibitions in practice.

Women

Rape and Domestic Violence: Rape, including spousal rape, is a crime, but evidentiary requirements, either in the form of clear physical injury or the testimony of a witness, often presented difficulties in prosecuting such crimes. The penalties for rape range from six months' to 20 years' imprisonment. There were no reports of police or judicial reluctance to act on rape cases; however,

women's rights advocates claimed that attitudes of police, hospitals, and courts toward survivors of sexual violence sometimes revictimized the individual.

The Rape Victims' Association reported more than 2,400 rape cases during the year. Many rapes went unreported due to fear of further violence, retribution, and social stigma.

The law prohibits domestic violence, including spousal abuse, and complaints are addressed in civil courts to secure protection measures. Family court judges have the right to bar a perpetrator from a victim's home or workplace. The law requires the state to open a criminal investigation potentially resulting in life imprisonment in cases where violence results in death. In November, Congress passed the Femicide Law, imposing stricter penalties on those who kill their spouses, partners, or children as a consequence of gender violence. According to local NGOs, lack of police and judicial vigilance often led to a lack of protection for victims.

Domestic violence against women was a problem. The civil society organization La Casa del Encuentro reported that 119 women died during the first half of the year as a result of domestic or gender-based violence. Approximately one-third of these cases occurred in Buenos Aires and the surrounding province. Of these killings, 59 percent involved a husband, boyfriend, or former boyfriend; in at least 16 cases, the woman had filed a complaint against the aggressor for domestic violence.

The Supreme Court's Office of Domestic Violence provided around-the-clock protection and resources to victims of domestic violence. The office received approximately 800 cases of domestic violence each month in the city of Buenos Aires, an estimated 63 percent of which involved violence against women (a percentage that grew by approximately 15 to 20 percent since November 2011). The office also carried out risk assessments necessary to obtain a restraining order.

On October 15, the Office of Domestic Violence and the Security Ministry signed an agreement to train members of the Federal Police, Navy, and Gendarmerie; as a result, 1,850 members of security forces in the city of Buenos Aires received guidance on domestic violence intervention.

The Ministry of Justice and Human Rights continued to operate mobile units to assist victims of sexual and domestic violence in the city of Buenos Aires. A free hotline servicing the city and the province of Buenos Aires offered consultations and received complaints.

Public and private institutions offered prevention programs and provided support and treatment for abused women. The Buenos Aires Municipal Government operated a small shelter for battered women.

Sexual Harassment: Sexual harassment in the public sector is prohibited under laws that impose disciplinary or corrective measures. In some jurisdictions, such as Buenos Aires City, sexual harassment may lead to the abuser's dismissal, whereas in others, such as Santa Fe Province, the maximum penalty is five days in prison.

Reproductive Rights: Couples and individuals generally had the right to decide freely the number, spacing, and timing of children, and had the information and means to do so free from discrimination, coercion, and violence. Access to information on contraception, and skilled attendance at delivery and in postpartum care were widely available. The law requires the government to provide free contraceptives, and an estimated 64-70 percent of women used modern contraceptive means.

Discrimination: Although women enjoyed equal rights under the law, including property rights, they continued to face economic discrimination and held a disproportionately high number of lower-paying jobs. Women also held significantly fewer executive positions in the private sector than men, according to several studies. The 2012 *Global Gender Gap Report* estimated that women earned 38 percent less than men for similar or equal work.

The Supreme Court's Office of Women trains judges, secretaries, and clerks to deal with court cases related to women's issues; it also seeks to ensure equal access for women to positions in the court system. Throughout the year this office trained judges, prosecutors, judicial staff, and law enforcement agents to increase awareness of gender-related crimes.

Children

Birth Registration: The country provided universal birth registration, and citizenship was derived both by birth within the country's territory and from one's parents. Parents have 40 days within which to register births, and the state has an additional 20 days to do so. The Ministry of Interior may issue birth certificates to children under age 12 whose births were not previously registered.

Child Abuse: Child abuse was not uncommon; for example, the Office of Domestic Violence reported that 30 percent of the cases it received per month involved children.

Child Marriage: The legal minimum age of marriage for men and women is 18.

Sexual Exploitation of Children: Sexual exploitation of children, including in prostitution, was a problem. The minimum age of consensual sex is 18. There is a statutory rape law with penalties ranging from six months to 15 years in prison, depending on the age of the victim. Additionally, regardless of age, if a judge finds evidence of deception, violence, threats, abuse of authority, or any other form of intimidation or coercion resulting in sexual intercourse, the minimum sentence increases to six years.

Several prominent cases of child sexual abuse were reported during the year. In July, Federal Police arrested four members of a pedophile network operating in the city of Buenos Aires and its suburbs. The criminals sexually exploited homeless minors. Investigations continued at year's end.

The law prohibits the production and distribution of child pornography with penalties ranging from six months to four years in prison. While the law does not prohibit the possession of child pornography by individuals for personal use, it provides penalties ranging from four months to two years in prison for possession of child pornography with the intent to distribute it. Additionally the law provides penalties ranging from one month's to three years' imprisonment for facilitating access to pornographic shows or materials to minors under the age of 14.

During the year prosecutors and police pursued cases of Internet child pornography. In September the Federal Police arrested 10 Argentine nationals and three foreigners for compiling and selling child pornography to a European pedophile network.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's report on compliance at travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

The Jewish community consisted of approximately 250,000 persons. Sporadic acts of anti-Semitic discrimination and vandalism continued. The Delegation of Argentine Jewish Associations (DAIA) received 263 complaints of anti-Semitism during the year.

The most commonly reported anti-Semitic incidents were virtual slurs posted on various Web sites, graffiti, verbal slurs, and the desecration of Jewish cemeteries. DAIA received five distinct reports of anti-Semitic behavior that led to physical violence and minor injuries involving five victims within Buenos Aires Province. Most complaints were filed in Buenos Aires City, and the DAIA claimed that cases in the provinces were likely underreported. On January 20, the newspaper *Pagina 12* published a cartoon strip depicting characters in a concentration camp that some sectors of the Jewish community considered to be anti-Semitic.

The investigation continued into the 1994 bombing of the Argentina Israelite Mutual Association (AMIA) community center in Buenos Aires that killed 85 persons. The federal prosecutor investigating the case continued to seek the arrest of eight Iranians for their alleged involvement in the bombing. In late October the government initiated a formal dialogue on the case with Iran, stating that the dialogue was focused exclusively on the AMIA case and bringing to justice the perpetrators of the crime. Jewish community representatives and opposition political leaders initially criticized the government for engaging in a secretive and unclearly conditioned political dialogue and expressed concerns that it could undermine the existing Argentine judicial investigation.

The Interreligious Committee for Peace, an interfaith organization in Cordoba Province, and the Cordoba Education Ministry designed a compulsory program for all high school students in their junior year to visit places of worship to learn about religious traditions of different communities in the province.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The constitution and laws prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, or the provision of other state

services. A specific law also mandates access to buildings for persons with disabilities. While the federal government has protective laws, many provinces have not adopted the laws and have no mechanisms to ensure enforcement. An employment quota law reserves 4 percent of federal government jobs for persons with disabilities, but NGOs and advocacy groups claimed the quota often was not respected in practice.

According to the Ministry of Labor, Employment, and Social Security's Office for Disabled Persons, more than 12,000 persons with disabilities had obtained jobs through the ministry's programs in the city of Buenos Aires as of May 2011. The programs included various benefits for disabled workers, such as free job training programs.

A pattern of inadequate facilities and poor conditions continued in some mental institutions. For example, the Jose T. Borda Psychiatric Hospital in Buenos Aires remained in poor condition and failed to provide basic necessities to patients, according to local human rights organizations and press reports.

In December nearly 30 NGOs filed formal complaints against the federal and Buenos Aires City education ministries for failure to make adequate provision for the inclusion of children with disabilities in schools.

The National Advisory Committee for the Integration of People with Disabilities under the National Council for Coordination of Social Policies has formal responsibility for actions to accommodate persons with disabilities. The government's actions to improve respect for the rights of persons with disabilities included a program started in September by Buenos Aires Province that establishes economic incentives for municipalities that hire persons with disabilities as civil servants. The program stipulated that municipalities participating in the program would receive a subsidy payment from the provincial Ministry of Labor.

Indigenous People

The constitution recognizes the ethnic and cultural identities of indigenous people and states that congress shall protect their right to bilingual education, recognize their communities and the communal ownership of their ancestral lands, and allow for their participation in the management of their natural resources. In practice indigenous people did not fully participate in the management of their lands or natural resources, in part because responsibility for implementing the law is

delegated to the 23 provinces, only 11 of which have constitutions recognizing indigenous rights.

Although there is no formal process to recognize indigenous tribes or determine who is an indigenous person, indigenous communities can register with the provincial or federal government as civic associations. A survey conducted by the National Statistics and Census Institute 9 in 2004-05 recorded an indigenous population of 600,000.

During his visit to the country in November and December 2011, UN Special Rapporteur on the Rights of Indigenous People James Anaya found that the “historical exclusion of indigenous peoples is still very apparent,” manifested by “the inadequate protection of their rights to their traditional lands, and their continuing marginalization and discrimination.” Poverty rates were higher than average in areas with large indigenous populations. Indigenous people had greater than average rates of illiteracy, chronic disease, and unemployment. Indigenous women faced further discrimination based on gender and reduced economic status. The lack of trained teachers hampered government efforts to offer bilingual education opportunities to indigenous people.

The special rapporteur’s report indicated that indigenous peoples continued to lack adequate participation in decisions affecting their ancestral lands and that projects carried out by the agricultural and extractive industries displaced individuals, limited their access to traditional means of livelihood, reduced the area of lands on which they depended, and caused pollution that in some cases endangered the health and welfare of indigenous communities. In August a Tucuman court fined a provincial legislator for ordering the clearing of forests on lands belonging to the Solco Yampa indigenous community, and required the legislator to reforest the land.

In September a provincial court prevented cacique Rolando Fregenal and other members of the Solco Yampa community from entering their own lands in Tucuman Province.

In April the IACHR ordered the national government to “guarantee life and personal integrity” to the Paichil Antrio people of Neuquen and the Toba people of Formosa, who had denounced being harassed and dispossessed from their lands by officials of their respective provincial governments for several years. On June 16, the Human Rights Ombudsman’s Office issued a report on the indigenous rights situation in Formosa, stating that many indigenous communities lacked “basic

rights,” such as access to clean water and health services. CELS reported that courts were prosecuting hundreds of indigenous people from Neuquen and Formosa for defending their ancestral lands.

There was no known progress on land surveys that the minister of interior in May 2011 had committed to completing when he ended a violent conflict between the indigenous Toba community and the Formosa provincial authorities.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Lesbian, gay, bisexual, and transgender organizations operated freely. They worked closely with academic institutions, NGOs, and government authorities without interference.

There was no official discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care. Overt societal discrimination generally was uncommon. However, the National Institute Against Discrimination, Xenophobia, and Racism reported cases of discrimination and police brutality toward the transgender community.

Other Societal Violence or Discrimination

There were no known reports of societal violence against persons with HIV/AIDS, but there were occasional reports of discrimination against persons with the disease. For example, a 2011 study by the Huesped Foundation reported that 94 percent of persons with HIV or AIDS had suffered at least one instance of discrimination or stigmatization.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

With some restrictions, the law protects the right of all workers to form and join “free and democratic labor unions, recognized by inscription in a special register,” conduct legal strikes, and bargain collectively. Military and law enforcement personnel are prohibited from forming and joining unions. The law prohibits antiunion discrimination, and provides broad protection to workers against dismissal, suspension, and changes in labor conditions. The law provides for reinstatement for workers fired for union activity.

The law allows unions to register without prior authorization, and registered trade union organizations may engage in certain activities to represent their members, including petitioning the government and employers, and adopting direct action measures. However, the law grants official trade union status to only one union deemed the “most representative” per industrial sector within a specific geographical region. Only unions with such official recognition receive trade union immunity for their officials, are permitted to deduct union dues directly, and may bargain collectively, including recourse to conciliation and arbitration. The most representative union bargains on behalf of all workers and collective agreements cover both union members and nonmembers in the sector. The law requires the Ministry of Labor, Employment, and Social Security to ratify collective bargaining agreements.

The Argentine Workers Central (CTA) and other labor groups not affiliated with the General Confederation of Labor continued to contend that the legal recognition of only one union per sector conflicted with international standards and prevented these unions from obtaining full legal standing. Despite a 2009 Supreme Court ruling in favor of the CTA and other unions seeking formal legal recognition, which would necessitate changes to current legislation and practice, congress had not modified labor legislation, and the executive branch had not granted such recognition to the CTA at year’s end.

Civil servants and workers in essential services may strike only after a compulsory 15-day conciliation process, and they are subject to the condition that undefined “minimum services” be rendered. Once the conciliation term expires, civil servants and workers in essential services must give five days’ notice to the administrative authority and the public agency that they intend to strike. If “minimum services” have not previously been defined in a collective bargaining agreement, all parties then negotiate which minimum services will continue to be provided and a schedule for their provision. The public agency, in turn, must provide two days’ notice to users about the intended strike.

The government effectively enforced these laws in practice. There were few cases of significant delays or appeals in the collective bargaining process.

Workers exercised freedom of association and the right to strike. Worker organizations were independent of government and political parties. However, some factions of these organizations were accused of being aligned with the government.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, and the government generally enforced such laws. However, forced labor occurred in practice, and challenges remained in holding perpetrators accountable and providing victims with services.

The Office of Rescue and Victims' Assistance under the Ministry of Justice and Human Rights reported rescuing 278 victims of forced labor from January through August; based on historical reporting practices this number was potentially overestimated. In May the Federal Police conducted 12 raids and rescued 76 Bolivian citizens in several sweatshops in the city of Buenos Aires and arrested 23 Argentine and Bolivian citizens.

A significant number of Bolivians, Paraguayans, and Peruvians, as well as Argentine citizens from poorer northern provinces, were subjected to forced labor in sweatshops, agriculture, and domestic work. Men, women, and children were known to be victims of forced labor; however, victims' gender and age varied by employment sector. Officials also reported anecdotally of forced labor victims exploited as street vendors and beggars in the capital.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The minimum age for employment is 16. In rare cases the respective labor authority may authorize a younger child to work as part of a family unit. Children between the ages of 16 and 18 may work in a limited number of job categories and for limited hours if they have completed compulsory schooling, which normally ends at age 18. Children under 18 cannot be hired to perform perilous, arduous, or unhealthy jobs. The law requires employers to provide adequate care for workers' children during work hours to discourage child labor.

Provincial governments and the city government of Buenos Aires are responsible for labor law enforcement. Legal penalties for employing underage workers ranged from 1,000 to 5,000 pesos (\$200 to \$1,000) for each child employed. Subsequent violations may lead the labor authority to close the company for up to

10 days, and the company is then prevented from becoming a vendor to the government for a year.

Child labor persisted in practice. According to a 2004 government survey, the most recent comprehensive data available, an estimated 450,000 children were working, or 7 percent of children between the ages of five and 13 years and 20 percent of children over the age of 14. In rural areas children worked on family and third-party farms producing such goods as blueberries, cotton, garlic, grapes, olives, strawberries, tobacco, tomatoes, and yerba mate. Children working in the agriculture sector often handled pesticides without proper protection. In urban areas some children engaged in domestic service and worked on the street selling goods, shining shoes, and recycling trash. According to government sources, some children worked in the manufacturing sector producing such goods as bricks, matches, fireworks, and garments. Children were also found working in the mining, fishing, and construction sectors.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

In September the government increased the monthly minimum wage for most workers to 2,670 pesos (\$545). This exceeded the amount of 1,576 pesos (\$322) a month that the National Census and Statistics Institute estimated a family of four needed to remain above the poverty line. A government resolution in late August also provided for an additional increase in the minimum wage to 2,875 pesos (\$587) in February 2013.

Federal law sets standards in the areas of health, safety, and hours. The maximum workday is eight hours, and the maximum workweek is 48 hours. Overtime pay is required for hours worked in excess of these limits. The law sets minimums for periods of rest, requiring a minimum of 12 hours of rest to start a new workday. Sundays are holidays, and those required to work on Sundays are paid double. Paid vacations are mandatory for all workers for a minimum of 14 days and a maximum of 35 days, depending on the length of their service.

The law sets premium pay for overtime, adding an extra 50 percent of the hourly rate on ordinary days and 100 percent on Saturday afternoons, Sundays, and holidays. Employees cannot be forced to work overtime unless work stoppage would risk or cause injury, the need for overtime is caused by an act of God, or

other exceptional reasons affecting the national economy or “unusual and unpredictable situations” affecting businesses occur.

The law requires employers to insure their employees against accidents at the workplace and when traveling to and from work. The law requires that employers either provide insurance through a labor risk insurance entity or provide its own insurance to employees to meet specified requirements set forth by the national insurance regulator. In late October, Congress amended the Labor Risks Law to increase compensation for workers’ death or incapacity, while limiting the workers’ entitlement to file a complaint if the workers accept the insurance company’s compensation.

Domestic employees, rural workers, freelance workers, and the volunteer firemen corps are excluded from the above provisions regarding minimum wages, hours of work, and occupational safety and health. The law includes separate minimum wage and hour regulations for domestic employees and rural workers.

Laws governing acceptable conditions of work were not enforced universally, particularly for workers in the informal sector. The Ministry of Labor, Education, and Social Security has responsibility for enforcing legislation related to working conditions. The ministry continued inspections to get companies to register their informal workers. During the year the government increased labor inspections to detect unregistered or compulsory work, mainly in rural areas. During 2011, the most recent year for which data are available, the labor ministry reported that it had 479 labor inspectors. Information was unavailable regarding the number of inspections during the year, violations encountered by inspectors, and fines or penalties imposed. According to a 2007 study by the International Labor Organization, 60 percent of employed citizens ages 15 to 24 were engaged in informal labor. The Superintendence of Labor Risks serves as the enforcement agency to monitor compliance of health and safety laws and the activities of the labor risk insurance companies.

In practice most workers in the formal sector earned significantly more than the minimum wage. In general the minimum wage served to mark the minimum pay an informal worker should get, although formal workers’ pay was usually higher. Most cases reflected similar patterns: victims had been deprived of their documents, lived in precarious housing without electricity or water, lacked restrooms, and experienced pay deductions for the cost of clothes and food.

According to the Labor Risk Superintendency, in 2010, the most recent year for which data were available, there were 61.6 worker fatalities per million workers. Agriculture recorded 184.6 per million workers, construction 196.7 per million, and transport 157.2 per million.