

# **ARGENTINA 2015 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Argentina is a federal constitutional republic. On November 22, Mauricio Macri won election to the presidency in the second round of multiparty elections the media and various nongovernmental organizations (NGOs) described as generally free and fair. The October 25 first round also included legislative elections for one-half of the Chamber of Deputies and one-third of the Senate. Civilian authorities maintained effective control over the security forces.

The principal human rights problems included multiple reports of official corruption, torture by federal and provincial police, and gender violence.

Other human rights problems included use of excessive force by police, harsh prison conditions, arbitrary arrest and detention, prolonged pretrial detention, judicial inefficiency, actions that risked impairing freedom of the press, child abuse, anti-Semitism, discrimination against and infringements on the rights of indigenous people, sex trafficking, forced labor, and child labor.

Judicial authorities prosecuted a number of officials who committed abuses during the year; some high-level officials, however, 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**

There were reports police committed arbitrary or unlawful killings.

The Center for Legal and Social Studies (CELS) reported 154 deaths during 2014 as a result of police using unwarranted or excessive force in the city of Buenos Aires and Buenos Aires Province, the highest number of such deaths in a decade.

On October 19, social activist Angel Veron died from injuries sustained on September 24, when provincial riot police detained and allegedly beat him at a protest he organized in Resistencia, Chaco Province.

#### **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”). On October 19, the Federal Criminal Court of La Plata convicted senior navy officers Jorge Alberto Errecaborde, Roberto Fernandez, and Jose Guitian of 36 counts of kidnapping and murder in the killings of two shipyard workers in “death flights” (used by the military to disappear persons) sometime during 1977-78. The court sentenced all three former officers to life in prison. In the same proceeding, a judge sentenced former chief of naval operations Antonio Vanek, former admiral Juan Carlos Herzberg, and former commanders of the coast guard Louis Rocca and Carlos Jose Ramon Schaller to 25 years of confinement each for complicity in crimes against humanity.

Judicial authorities continued to investigate cases of kidnapping and illegal adoption of children born to detained dissidents by members of the former military dictatorship. On October 16, the NGO Abuelas de la Plaza de Mayo reported that during the year two of the estimated 500 persons born to detained and missing dissidents during the dictatorship and illegally adopted by former military officials had been identified and made aware of their background.

The Argentine Forensic Anthropology Team continued cooperation with the National Institute of Industrial Technology, which provides technical support and assistance in the identification of remains of Dirty War victims.

### **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. NGOs, CELS, the Prosecutor General’s Office, the Penitentiary Authority (an independent government body that monitors prison conditions), and the Buenos Aires Provincial Memory Commission’s Committee against Torture (an autonomous office established by the provincial government) reported complaints of torture perpetrated by provincial and federal prison officials.

The Buenos Aires provincial Criminal Court of Cassation’s Office of Public Defenders reported that from January to April there were 265 complaints of torture and mistreatment by law enforcement officers during arrest or institutional

confinement, of which 25 percent involved minors. The Santa Fe provincial Office of Public Defenders reported 180 complaints from December 2014 to September 2015, of which 12 percent involved minors.

### **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 reports by human rights organizations and research centers.

Physical Conditions: While prison capacity in federal penitentiaries was adequate, prisoners in Buenos Aires provincial penitentiaries exceeded facility capacity by an estimated 70 percent, according to a CELS report during the year. Many pretrial detainees were held with convicted prisoners.

Overcrowding in juvenile facilities often resulted in minors being held in police station facilities, although some NGOs and the national prison ombudsman noted the law prohibited doing so.

Women's prisons were generally less violent, dangerous, and crowded than men's prisons.

The Federal Penitentiary Service reported 33 inmate deaths, 17 of which were violent, between January and September.

In July a judge convicted three Federal Prison Service officers of inflicting beatings, kicks, cold-water showers, and burns upon Brian Nunez, who was incarcerated in the Marcos Paz Penitentiary, and sentenced the officers to nine and one-half years' confinement.

Administration: Information on the adequacy of recordkeeping and alternatives to sentencing for nonviolent offenders was unavailable. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhuman conditions. Some local NGOs noted, however, that access to a public defender was sometimes limited and that prisoners occasionally did not submit complaints to authorities due to fear of reprisal.

Independent Monitoring: The government usually permitted independent prison visits by local and international human rights observers.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

#### **Role of the Police and Security Apparatus**

The federal police generally 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, the Gendarmerie, the Coast Guard, and the Bureau of Prisons. All federal police forces fall under the authority of the Ministry of Security. Each province, including the city of Buenos Aires, also has its own police force that responds to a provincial (or municipal) security ministry or secretariat. Individual forces varied considerably in their effectiveness and respect for human rights. The armed forces fall under the Ministry of Defense and by law do not participate in internal security. Federal security forces have authority to conduct internal investigations into alleged abuses and to dismiss individuals who allegedly committed a human rights violation. In May, Security Minister Rodriguez dispatched approximately 1,000 federal security force personnel to Santa Fe Province to contain gang violence.

The federal government can file complaints about alleged abuses with the federal courts, and provincial governments can do the same for provincial security forces. Members of security forces convicted of a crime were subject to stiff penalties. Authorities generally administratively suspended officers accused of wrongdoing until their investigations were completed. Authorities investigated and in some cases detained, prosecuted, and convicted the officers involved. Impunity at the federal and provincial level remained a problem, however.

#### **Arrest Procedures and Treatment of Detainees**

Police generally apprehended individuals 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 authorities have a well-founded belief they have committed or are about to commit a crime or police are unable to determine the suspect'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 their detention by a lower criminal court judge, who determines whether to proceed with an investigation. In some cases there were 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.

Authorities allowed detainees prompt access to counsel and provided public defenders if they were unable to afford counsel. In some cases such access was delayed due to an overburdened system.

In October, 19 police officers, including a former police station chief in Quilmes, Buenos Aires Province, received sentences of from three to 19 years' confinement for torture and culpable responsibility in the deaths of four teenagers during an internal riot at Quilmes Police Station No. 1 in 2004.

Arbitrary Arrest: Police reportedly arrested and detained citizens arbitrarily on occasion.

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 circumstances. The slow pace of the justice system often resulted in lengthy detentions beyond the period stipulated by law. According to September statistics from the Federal Penitentiary Service, 63 percent of detainees in federal prisons were 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 served.

#### **e. Denial of Fair Public Trial**

While the constitution and law provide for an independent judiciary, the government did not always respect judicial independence. According to local NGOs, judges in some federal criminal and ordinary courts were subject at times to political manipulation. NGOs also criticized all three branches of the government for use of inappropriate procedures for selecting judges.

The government sought to influence the judicial process systemically. On June 25, the Magistrates' Council unseated substitute judge Luis Maria Cabral days before he was to vote in an appellate decision concerning the constitutionality of the government's 2013 memorandum of understanding with Iran concerning the Argentina Israelite Mutual Association cultural center bombing of 1994. Cabral filed a formal complaint stating that his removal was illegal.

On July 16, a federal appeals court disqualified Judge Claudio Bonadio from continuing his criminal investigation regarding alleged money laundering and misuse of public funds involving the holding companies Hotesur and Valle Mitre, in which former president Cristina Fernandez de Kirchner and her late husband had financial interests. The complainant in the case, National Deputy Margarita Stolbizer, warned that the judge appointed to succeed Bonadio lacked sufficient impartiality to decide the case. At year's end the case continued.

A law enacted in June allowed the Magistrates' Council to designate "substitute judges" from congressionally approved lists of judges, attorneys, and court secretaries, circumventing the normal qualifying and order of merit criteria reserved for permanent appointments. The media reported that the government selected substitute judges sympathetic to its interests. On November 4, the Supreme Court ruled the law providing for the appointment of substitute judges was unconstitutional.

### **Trial Procedures**

The law provides for the right to a fair trial, and the independent judiciary generally enforced this right.

Trials are generally public. In federal and provincial courts, all defendants enjoy a presumption of innocence and have the right to legal counsel, to remain silent, to call defense witnesses, and to appeal. 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. A panel of judges decides guilt or innocence. Although defendants and their attorneys have access to government-held evidence, local NGOs indicated defendants sometimes experienced obstacles or delays in obtaining such evidence. Defendants can present witnesses and provide expert witness reports, in addition to the defendant's own evidence.

Lengthy delays, procedural logjams, long gaps in the appointment of permanent judges, inadequate administrative support, and general inefficiency hampered the judicial system. Judges' broad discretion on whether and how to pursue investigations contributed to a public perception that many decisions were arbitrary.

Federal and provincial courts continued the transition to trials with oral arguments in criminal cases, replacing the old system of written submissions. Cordoba, Neuquen, and Buenos Aires provinces approved legislation to provide defendants accused of certain serious crimes the right to a trial by jury. On March 12, the first trial by jury in the province of Buenos Aires resulted in an acquittal of the accused.

In June Congress enacted supplementary legislation implementing the 2014 criminal procedure code (CPP), but the new government delayed full implementation until 2017. The law transforms the country's hybrid federal inquisitive system into a full accusatory system, with expanded prosecution under the authority of the attorney general and trial by jury. The new criminal code imposes time limitations on prosecutions (most cases under the new system must be disposed of in three years), expands victims' rights, and provides for expedited deportations of foreigners in lieu of prosecution. The CPP also creates direct interaction between security forces and prosecutors, who will assume prosecutorial responsibilities currently exercised by investigating magistrates.

### **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.

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

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

On October 21, two opposition lawmakers filed criminal complaints in federal court alleging that the government conducted illegal telephone wiretaps of at least 202 prominent Argentine political, media, and social figures known for their

opposition to then president Kirchner. The cases remained under investigation at years' end.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

The constitution provides for freedom of speech and press, and the government generally respected these rights, although media coverage was politicized due to continued tension between the president and media critics and preferential disbursement of advertising to progovernment media.

Press and Media Freedoms: Independent newspapers, radio and television outlets, and internet sites were numerous and active, expressing a wide variety of views. Placement of official advertising remained unbalanced and discriminatory, however, despite Supreme Court rulings ordering the government to apply reasonable balance in the distribution of public advertising. The two national newspapers with the largest circulation, both critical of the government, received approximately 5 percent of public advertising budgeted by the government for print media between January and June (the latest available data). During the same period, the two major progovernment newspapers received approximately 26 percent of public advertising, despite readership that was just 5 percent that of the two largest dailies.

The uneven distribution of public advertising monies was also a problem for provincial and city administrations. A candidate for the Chamber of Deputies had to withdraw his candidacy after it was made public that he received a large amount of public advertising funds from the government of the city of Buenos Aires.

There were allegations of government pressure on private companies to curtail advertising in antigovernment outlets. In January, Marcelo Longobardi, the host of the most popular radio show in the country, reported that an insurance company decided to stop advertising during his program as a result of "political pressure."

Violence and Harassment: There were several reports of physical attacks, threats and harassment against journalists for their reporting, most of which were linked to media coverage of drug-trafficking activities and some to official corruption. On August 3, unknown assailants stoned the entrance of the apartment building of well known journalist Jorge Lanata, two days after he aired a report on national



television that linked former chief of cabinet Anibal Fernandez to the 2008 killing of three individuals involved in drug-trafficking activities.

On January 24, Damian Pachter, the journalist who first reported the January 18 death of Special Prosecutor Alberto Nisman (see section 6, Anti-Semitism), fled to Israel after receiving private messages warning that his life was at risk. The official Twitter feed of the Casa Rosada (the president's office) posted an internal Aerolineas Argentinas screenshot of Pachter's flight itinerary. At year's end Pachter remained in Israel.

In May prosecutors charged journalist Juan Pablo Suarez with "incitement of collective violence" with the intention of "terrorizing the population" after he published information on police strikes in Santiago del Estero Province. Authorities later dropped the aggravated penalty, but at year's end the case continued.

Censorship or Content Restrictions: On June 12, a committee of workers at the state-owned public television station (TV Publica) accused the news manager of canceling, for political reasons, an interview that had been arranged with opposition leader Sergio Massa.

Libel/Slander Laws: On June 7, a newspaper and a radio station were fined two million pesos (\$206,000 as of December 9) after they reported anonymous call-in radio comments insulting the governor of Formosa Province.

Actions to Expand Press Freedom: On September 29, the Federal Court of Appeals ordered the Chamber of Deputies to make public information concerning its internal administration and finances, including payroll and administrative expense data. The court ruling stated that the information "does not belong to the State, but to the Argentine people." The ruling ended a suit a group of NGOs filed in 2014.

## **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. Individuals and groups could engage in the expression of views via the internet, including the use of e-mail and social networks. The World Bank reported that 65 percent of citizens used the internet.

## **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 the freedoms of assembly and association, and the government generally respected these rights.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **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.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern. According to information from UNHCR, at the close of 2014 there were 3,498 refugees and 1,830 asylum seekers residing in the country.

## **Protection of Refugees**

Access to Asylum: The law provides for the granting of refugee status, and the government has established a system for providing protection to refugees. Decisions on asylum petitions may take up to two years to adjudicate.

## **Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their government in free and fair periodic elections based on universal and equal suffrage, and citizens exercised that ability.

## **Elections and Political Participation**

Recent Elections: The country held presidential and legislative elections in October and November 2015. Voters elected more than one-half of the members of the Chamber of Deputies, representing all of the provinces and the city of Buenos Aires, and one-third of the members of the Senate, representing eight provinces. In 22 of the 24 provinces, citizens elected new governors. Local and international observers considered the elections generally free and fair.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials; nonetheless, 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.

Corruption: Cases of corruption occurred in some security forces. The most frequent abuses included extortion of, and protection for, those involved in drug trafficking, human trafficking, money laundering, and the promotion of prostitution.

On October 13, former national transportation secretary Ricardo Jaime pled guilty to bribery and under a plea bargain arrangement received a suspended sentence of 18 months, a fine of two million pesos (\$206,000 as of December 9), and a two-year ban on serving in public positions. Jaime admitted to receiving in-kind bribes of travel and vacation rentals from transportation companies it was his responsibility to regulate. Following a plea bargain that federal judge Julian Ercolini accepted, Jaime also faced trial for his alleged institutional responsibility in a 2012 commuter train crash that killed 51 persons and injured more than 700.

Allegations of corruption in provincial as well as in federal courts remained frequent. At year's end a trial date remained pending for former vice president Amado Boudou, who was indicted in June 2014 for illicit enrichment and other lesser offenses.

Financial Disclosure: Public officials are subject to financial disclosure laws, and the Ministry of Justice and Human Rights' Anti-Corruption Office is responsible for analyzing and investigating federal executive branch officials, based on their financial disclosure forms. The law provides for public disclosure, but not all agencies complied, and enforcement remained a problem, since authorities did not

sanction public officials for noncompliance. The anticorruption office is also responsible for investigating corruption within the federal executive branch and in matters involving federal funds, except for funds transferred to the provinces. As part of the executive branch, the office 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.

Public Access to Information: 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. Implementation of the decree was not consistent. On September 1, the Supreme Court upheld a lower court's decision requiring the Ministry of Justice and Human Rights to disclose details regarding the budget, personnel, and objectives of a program under the ministry's jurisdiction. A national deputy brought the case after the Ministry of Justice and Human Rights argued it was not required to make the information public.

### **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.

The United Nations or Other International Bodies: On October 23, then justice minister Julio Alak announced that the government would pursue criminal prosecutions of two civil society representatives who testified before a hearing of the Inter-American Commission on Human Rights (IACHR). The government claimed the hearing was “a gross political and media operation to interfere in the Argentine electoral process orchestrated by sectors linked to the opposition and the (media) Grupo Clarin.” Former foreign minister Hector Timerman identified four civil society organizations as “interested parties” and indicated that the testimony violated the 48-hour ban on electioneering prior to the October 25 national elections. The government had previously petitioned the IACHR to postpone the hearing and chose not to participate in the proceeding. The Ministry of Foreign Affairs issued a press statement criticizing the IACHR for meddling in the internal affairs of the country in violation of the commission's mandate.

At year's end the government had not responded to the March 2014 request by the UN special rapporteur on the independence of judges and lawyers, since renewed, to visit the country.

Government Human Rights Bodies: The government has a human rights secretariat within the Ministry of Justice and Human Rights. Its main objective is to coordinate within the ministry and collaborate with other ministries and the judiciary to promote policies, plans, and programs for the protection of human rights. During the year it published leaflets and books on a range of human rights topics.

The prosecutor general's Office of Crimes against Humanity investigated and documented human rights violations that occurred under the 1976-83 military dictatorship.

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

The law prohibits discrimination based on race, sex, nationality, ideology, social status, or physical characteristics, and the government generally enforced these prohibitions.

On March 18, the government amended regulations to the law that established the National Institute against Discrimination, Xenophobia, and Racism (INADI) to include members of the NGO community on INADI's board of directors.

### **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; women's rights advocates, however, claimed that the attitudes of police, hospitals, and courts toward survivors of sexual violence sometimes revictimized them. They noted there was a lack of interest in or training for law enforcement officials in protecting survivors or enforcing measures against aggressors, a lack of gender training for legal aid lawyers, and judicial responses that were insufficient to stop domestic violence.

No statistics were available on the number of rape cases reported 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; survivors of domestic violence may secure protective measures through the civil courts. 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. The law imposes stricter penalties on those who kill their spouses, partners, or children as a consequence of their gender. According to local NGOs, lack of police and judicial vigilance often led to a lack of protection for victims.

The NGO La Casa del Encuentro reported that, from January to October, 223 women died as a result of domestic or gender-based violence. A majority of the killings involved a husband, boyfriend, or former boyfriend. In some cases the woman had filed a complaint against the aggressor for domestic violence. Since 2008 there have been 2,224 reported cases of femicide.

On August 5, a judge sentenced Luis del Milagro Martinez to life imprisonment for killing his wife by strangulation in Oran, Salta Province.

The Supreme Court's Office of Domestic Violence provided around-the-clock protection and resources to victims of domestic violence. The office received approximately 808 cases of domestic violence in the city of Buenos Aires during the first nine months of the year, approximately 66 percent of which involved violence against women. The office also carried out risk assessments necessary to obtain a restraining order.

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.

On June 3, more than 200,000 people demonstrated against gender-based violence in the city of Buenos Aires. The protest, organized by a coalition of NGOs and civil society, demanded full implementation of the country's law against femicide, including post-violence counseling and pro bono legal assistance to gender-violence victims as well as student education programs. At year's end the National Plan for the Eradication of Gender-based Violence was not in force.

Sexual Harassment: The law prohibits sexual harassment in the public sector and imposes disciplinary or corrective measures. In some jurisdictions, such as the city of Buenos Aires, sexual harassment might 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 have the right to decide the number, spacing, and timing of their children, to manage their reproductive health, and to have access to 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 to 70 percent of women used modern contraceptive means.

Discrimination: Although women enjoyed the same legal status and rights as men under family, labor, property, and inheritance laws, 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. Although equal payment for equal work is constitutionally mandated, women earned approximately 55 percent as much as men for similar or equal work.

The Supreme Court's Office of Women trained judges, secretaries, and clerks to handle court cases related to women's issues and ensure equal access for women to positions in the court system. The office also trained judges, prosecutors, judicial staff, and law enforcement agents to increase awareness of gender-related crimes and develop techniques to address gender-related cases and victims.

## **Children**

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

Child Abuse: Child abuse was common; the Supreme Court's Office of Domestic Violence reported that 26 percent of the cases it received involved children.

Early and Forced 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 13, but there are heightened protections for persons ages 13-16. There is a statutory rape law with penalties ranging from six months to 20 years' in prison, depending on the age of the victim and other factors. In addition, 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, regardless of age. Several prominent cases of child sexual abuse were reported during the year. The May 18 decision by two judges of the Buenos Aires provincial court of cassation to reduce the sentence of a convicted pedophile because the six-year-old victim "was predisposed to homosexuality" due to previous molestation drew widespread outrage, and both judges resigned from the bench.

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. The law also provides penalties ranging from one month to three years in prison for facilitating access to pornographic shows or materials for minors under the age of 14.

During the year prosecutors and police aggressively pursued cases of internet child pornography. Because of the difficulty proving distribution and production, however, the conviction rate was reportedly low. Lengthy judicial processing times, lack of cooperation between provincial and city officials, and bureaucratic inefficiencies also exacerbated the difficulty of punishing offenders.

In July the Public Prosecutor Office of the city of Buenos Aires concluded an investigation leading to the arrest of five persons from the district of Moron engaged in the receipt of child pornography. Charges against all five were dropped after prosecutors were unable to establish the act of diffusion of pornography.

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's report on compliance at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html) and country-



specific information

at [travel.state.gov/content/childabduction/en/country/argentina.html](http://travel.state.gov/content/childabduction/en/country/argentina.html).

### **Anti-Semitism**

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

The most commonly reported anti-Semitic incidents were slurs posted on various websites, graffiti, verbal slurs, and the desecration of Jewish cemeteries. For example, in August in the town of Colonia Avellaneda, Entre Rios Province, swastikas, pro-Nazi slogans, and terms such as “white power” were spray painted on the walls lining the main thoroughfare.

On January 19, a mob of 10 persons attacked the hostel Onda Azul, popular with Israeli backpackers, in Chubut Province. During a four-hour siege, the attackers shouted anti-Semitic slogans, beat the tourists, damaged the premises, and allegedly stole the tourists’ possessions.

On April 20, then president Kirchner posted statements on her blog that the Jewish community leadership was part of a conspiracy to destabilize the government.

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 maintained the arrest order for eight Iranians for their alleged involvement in the bombing. In 2013 the country signed and ratified a memorandum of understanding (MOU) with Iran to investigate jointly the AMIA case, and the government sought to negotiate with Iran on the specifics of the agreement’s implementation. Jewish community representatives and opposition political leaders expressed concerns the MOU could undermine the country’s existing judicial investigation. In 2013, after the Jewish organizations AMIA and DAIA filed suit against the agreement, a federal court ruled the MOU unconstitutional, and the government appealed the decision. One day after assuming office on December 10, the government of President Mauricio Macri withdrew the appeal. On December 22, the Criminal Court of Cassation formally accepted the government’s action, making final the ruling that the MOU was unconstitutional.

On January 18, Alberto Nisman, the special prosecutor in charge of the AMIA bombing investigation since 2004, was found dead of a gunshot wound to the head. Nisman was scheduled to testify the next day before a congressional committee concerning his allegations that then president Kirchner and associates conspired, through the MOU, to convey impunity to the Iranians suspected of planning and executing the AMIA bombing. At year's end investigations into his unsolved death continued.

On August 6, a court commenced preliminary hearings in the AMIA bombing cover-up trial, which accuses government and law enforcement officials and a leader of the country's Jewish community of complicity and false testimony to cover up the 1994 AMIA bombing.

On October 16, the Supreme Court, reviving the dormant investigation into bombing, called for the arrest of two suspected Lebanese Hezbollah members charged with orchestrating the bombing, which killed 29 persons and injured 242.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **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 by persons with disabilities. The NGO Access Now reported a notable improvement in school accessibility in the city of Buenos Aires during its most recent survey. As of October, 39 percent of public schools met most accessibility requirements and 78 percent met basic accessibility needs.

While the federal government has protective laws, many provinces had not adopted such laws and had 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. On June 19, the Ministry of Social Development launched a job opportunity initiative for persons with disabilities to perform clerical duties at the ministry.

A pattern of inadequate facilities and poor conditions continued in some mental institutions.

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.

### **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. 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.

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 24 provinces, only 11 of which have constitutions recognizing indigenous rights. The NGO International Work Group for Indigenous Affairs reported that implementation of land awards was slow and unpredictable and that bureaucracy, insufficient funding, and opposition by landowners or businesses delayed the process. In 2006 the National Institute for Indigenous Affairs, which awards land rights to indigenous communities and offers indigenous persons constitutional protection and full citizenship rights, began conducting the Territorial Survey Program for Indigenous Communities as part of the land titling process. While the institute initially had four years to conclude the surveying and demarcation, a 2010 law extends the process to 2017.

Indigenous persons seeking access to justice faced additional unique challenges, including linguistic, cultural, and economic barriers. Most lived in far-flung reaches of the country and must travel considerable distances to access courts. Many provincial courts were unaware of national and international law concerning indigenous peoples' rights to land and natural resources.

Indigenous peoples had lower levels of economic and social development and higher rates of illiteracy than nonindigenous sectors. 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.

Indigenous peoples continued to lack adequate participation in decisions affecting their ancestral lands. 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 February representatives of the Qom indigenous tribe, with representatives of the Pilaga, Wichi, and Nivacle indigenous communities, built a temporary protest camp on one of the principal avenues of Buenos Aires. The protest, led by Qom chief Felix Diaz, sought a dialogue with the government for the return of ancestral lands in the northern province of Formosa. The former government did not recognize the Qom community referendum that elected Diaz as its representative. On July 5, riot police in armored vehicles raided the camp to evict the protest camp, but the raid failed after images of it were widely circulated on the internet. Upon assuming office on December 10, President Macri met with Diaz and other indigenous and ethnic leaders, promised open dialogue, and reaffirmed the responsibility to treat indigenous issues as matter of human rights.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

Lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons generally enjoyed the same legal rights and protections as heterosexual persons. No laws criminalize consensual same-sex conduct between adults. LGBTI persons could serve openly in the military.

The law gives transgender persons the right legally to change their gender and name on identity documents without prior approval from a doctor or judge. It also requires public and private healthcare plans to cover some parts of hormone therapy and gender reassignment surgery, although the Ministry of Health did not effectively enforce this requirement. In September the country enacted legislation prohibiting exclusion of blood donors based upon sexual orientation.

National antidiscrimination laws do not include sexual orientation or gender identity as protected grounds, but there was no official discrimination based on sexual orientation or gender identity in employment, housing, statelessness, or

access to education or health care. Overt societal discrimination generally was uncommon, but media and NGOs reported cases of discrimination, violence, and police brutality toward the LGBTI community, especially transgender persons. On October 24, a group of alleged neo-Nazis wielding plastic pipes filled with cement chased a gay couple in Mar del Plata through the streets of the city and beat them. On October 13, well-known LGBTI activist and transgender woman Diana Sacayan was found dead in her apartment; her body showed signs of violence. Two other transgender women, Marcela Chocobar and Coty Olmos, were killed in separate incidents in September. No indictments were made by year's end.

On July 25, a transgender woman, Laura Moyano, was found dead at a construction site in Cordoba Province. Moyano's face had been smashed with a stone, and her body bore signs of genital mutilation. Prosecutors believed that Moyano, who allegedly engaged in prostitution, was killed by a customer. There were no indictments by year's end.

### **HIV and AIDS Social Stigma**

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. On April 13, the Labor, Employment, and Social Security Ministry issued a resolution promoting actions against discrimination in the workplace, including a prohibition on companies' including HIV tests in preemployment medical screening.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the rights of workers to form and join independent unions, bargain collectively, and conduct legal strikes; the government generally respected these rights. The law prohibits military and law enforcement personnel from forming and joining unions. The law prohibits discrimination against unions and protects workers from dismissal, suspension, and changes in labor conditions. An appeals court in Cordoba Province, however, recognized the right of security forces to unionize, and the Supreme Court was studying a similar case brought by the Buenos Aires provincial police at year's end. The law requires reinstatement of 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. The law grants official trade union status to only one union deemed the “most representative,” defined by law as the union that has the highest average proportion of dues-paying members to number of workers represented, per industrial sector within a specific geographical region. Only unions with such official recognition receive trade union immunity from employer reprisals against their officials, are permitted to deduct union dues directly from wages, and may bargain collectively with 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. In 2013 the Supreme Court reaffirmed the need for more than one official union per sector and for amendments to the legislation. Congress had not modified the labor laws by year’s end; the executive branch, however, granted preliminary recognition to the CTA in October 2014.

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 unspecified “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 where they intend to strike. If “minimum services” were not previously 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 clients two days’ notice of the impending strike.

The government effectively enforced these laws. Complaints of unfair labor practices can be brought before the judiciary. Violations of the law may result in a fine being imposed on the employer or the relevant employers’ association, where appropriate. Information regarding fines and other penalties for violations was unavailable. There were few cases of significant delays or appeals in the collective bargaining process.

Workers exercised freedom of association, and employers respected the right to collectively bargain and to strike.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor, and the government generally enforced such laws. Penalties for violations range from four to 15 years in prison, are comparable to those for other serious offenses, and are sufficiently stringent to deter violations. The Ministry of Justice and Human Rights reported rescuing approximately 304 potential victims of forced labor between January and August. The Labor, Employment, and Social Security Ministry carried out several inspections during the year and found various irregularities and potential cases of forced labor. Efforts to hold perpetrators accountable continued during the year, including a conviction in August for labor trafficking six persons in the forestry industry in Entre Rios Province. Support services for victims improved, including a six-month renewable subsidy for forced labor workers in rural areas announced by the National Registry for Rural Workers and Employers (RENATEA) in September. Long-term services were lacking, however.

Forced labor occurred. Employers subjected a significant number of Bolivians, Paraguayans, and Peruvians, as well as Argentine citizens from poorer Northern provinces, to forced labor in the textile sector, agriculture, construction, domestic work, and small businesses (including restaurants and supermarkets). There were reports that Chinese citizens were victims of forced labor in supermarkets. Men, women, and children were victims of forced labor, although victims' typical gender and age varied by employment sector (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The minimum age for employment is 16. In rare cases labor authorities 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. Financial penalties for employing underage workers range from 125 pesos (\$13 as of December 9) to 625 pesos (\$64) for each child employed. Subsequent violations permit the labor authority to close the company for up to 10 days, and the company is subsequently prohibited from being a government vendor for a year. Prison terms for child labor violations range from one to four years, unless the crime falls under a more serious category. The law excludes parents. These penalties were generally sufficient to deter violations.

The government conducted 42 awareness and prevention seminars nationally on child labor. In an effort to deter child labor, RENATEA approved 21 projects to support rural schools and provided funding to 25 new children educational centers that provide day care for children of rural workers.

While the government generally enforced applicable laws, observers noted some inspectors were acquainted or associated with the persons being inspected, and corruption remained an obstacle to compliance, especially in the provinces.

Child labor occurred. According to a 2004 government survey, an estimated 450,000 children worked, amounting to 7 percent of children between the ages of five and 13 and 20 percent of children over the age of 14. The Labor, Employment, and Social Security Ministry reported a 66 percent decline in child labor rates between 2004 and 2012. In 2014 the Catholic University of Argentina issued a child labor report (covering the period 2010 to 2013). The report found that 15 percent of children in urban areas between the ages of five and 17 performed some type of work. In rural areas children worked on family and third-party farms producing agricultural goods or raising sheep and pigs. Children working in the agricultural 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 also worked in the mining, fishing, and construction sectors. Officials noted reports of children forced to work as street vendors and beggars in the capital. Commercial sexual exploitation of children occurred as well (see section 6, Children).

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

#### **d. Discrimination with Respect to Employment or Occupation**



The law prohibits discrimination with respect to employment or occupation on the basis of race, color, sex, religion, political opinion, national origin or citizenship, social origin, disability, sexual orientation or gender identity, age, language, and HIV-positive status or other communicable disease.

The most prevalent cases of workplace discrimination were based on gender (see section 6, Women) and age. The government enforced these laws more effectively in cases where employees were terminated because of discrimination, but there were no statistics available on how the law was applied in cases of discrimination during the hiring of employees.

Discrimination also occurred on the basis of HIV-positive status (see section 6, HIV/AIDS and Social Stigma). In April the Labor, Employment, and Social Security Ministry issued a resolution promoting progressive actions in the workplace and prohibited companies from blood screening for HIV when conducting employment-related medical screening.

#### **e. Acceptable Conditions of Work**

In August the government increased the monthly minimum wage for workers to 5,588 pesos (\$576 as of December 9). According to the latest available official data from the National Census and Statistics Institute (INDEC), issued in December 2013, a family of four needed 1,783 pesos (\$184) to remain above the poverty line. More recent estimates by private analysts in August indicated that a family of four needed more than 6,540 pesos (\$674) to remain above the poverty line.

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 prohibits excessive overtime and defines permissible levels of overtime as three hours a day. The law sets minimums for periods of rest, requiring a minimum of 12 hours of rest prior to the start of a new workday. Sundays are holidays, and those required to work on Sundays are paid double. Labor law mandates between 14 and 35 days of paid vacation, depending on the length of the worker's 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 government sets occupational safety and health standards, which were current and appropriate for the main industries in the country. The law requires employers to insure their employees against accidents at the workplace and when traveling to and from work. The law requires employers either to provide insurance through a labor risk insurance entity or to provide their own insurance to employees to meet requirements specified by the national insurance regulator. In 2012 congress amended the Labor Risks Law to increase compensation for a worker’s death or incapacitation, while limiting the worker’s right to file a complaint if he or she accepts the insurance company’s compensation.

In September 2014 the executive branch issued implementing regulations to provide labor risks insurance coverage to domestic employees starting in November 2014. In 2013 Congress unanimously approved an amendment to the domestic employee law that expands workers’ rights and benefits to domestic employees, rural workers, freelance workers, and the volunteer firemen corps.

Laws governing acceptable conditions of work were not enforced universally, particularly for workers in the informal sector. The Labor, Employment, and Social Security Ministry has responsibility for enforcing legislation related to working conditions. The ministry continued inspections to ensure companies registered their informal workers. During the year the government increased labor inspections to detect unregistered or compulsory work, mainly in rural areas. RENATEA conducted similar inspections employing its own agency inspectors. During 2014 the ministry reported that it had 479 labor inspectors. The Labor, Employment, and Social Security Ministry conducted inspections in various provinces during the year. Statistics on the number of inspections during the year, violations encountered by inspectors, and fines or penalties imposed were not publicly available. According to the International Labor Organization, 46.8 percent of employed citizens were engaged in informal labor arrangements; INDEC reported that 34.3 percent of workers were unregistered as of the last quarter of 2014. The Superintendency of Labor Risk served as the enforcement agency to monitor compliance with health and safety laws and the activities of the labor risk insurance companies.

Most workers in the formal sector earned significantly more than the minimum wage. The minimum wage generally served to mark the minimum pay an informal worker should get, although formal workers' pay was usually higher.

Superintendency of Labor Risk statistics for 2014 indicated there were, on average, 47.4 worker fatalities per million workers. The electricity, gas, and water industries recorded 173.9 fatalities per million workers, construction 155.4 fatalities per million, and agriculture 133.8 fatalities per million. The 2014 data represented a substantial reduction in fatalities.

Workers could not always remove themselves from situations that endangered their health or safety without jeopardy to their employment, and authorities did not effectively protect employees in these situations.