

UPR MONITOR

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General information on Argentina	1
Information submitted to the Working Group	2
State report.....	2
Official UN documents.....	2
Other relevant stakeholders	3
Interactive dialogue.....	3
Presentation by the State	3
Key issues	4
Adoption of the report [18 April 2008, 4:00 p.m.]	6
Closing of the 1 st session of the UPR.....	7

General information on Argentina

Membership of the Human Rights Council

Argentina is not a member of the Human Rights Council. It is a candidate for the next elections to the Council in May.¹

Members of the troika

Ukraine, Cuba, Cameroon.²

National consultation

The preparation of the report was coordinated by the Department of Human Rights of the Ministry of Foreign Affairs, which collated information supplied by various national agencies and by civil society.

¹ Its voluntary pledges and commitments are available here: <http://documents-dds-ny.un.org/doc/UNDOC/GEN/N08/273/66/pdf/N0827366.pdf?OpenElement>.

² Regional groups selected: African Group, Group of Latin American and Caribbean States (GRULAC), Eastern European Groups (EEG). Members selected: Ukraine, Cuba, Cameroon. There were no objections by Argentina or by the members of the troika to the selection. For a summary of the selection of troikas, see http://www.ishr.ch/hrm/council/councilalert/council_update_7session.pdf

Information submitted to the Working Group

State report

On 10 March 2008 Argentina submitted its State report for universal periodic review.³ After a summary of the legal and institutional framework for the protection of human rights, Argentina's achievements and best practices in the field of human rights are presented. The main issues treated by the report are measures undertaken to combat impunity and discrimination, the establishment of the National Memory Archives and the National Commission on the Right to an Identity, the creation of a mechanism for financial compensation for victims of State terrorism, and the protection of the human rights of migrants and refugees. The report dedicates a section to the main challenges and limitation that the State has to address, such as the protection of witnesses during trials against perpetrators of human rights' violation under the dictatorship period, and conditions of detention. The final part of the report focuses on the evaluation of measures undertaken for the protection of vulnerable groups, including indigenous people, women, children and adolescents, and steps taken towards the effective enjoyment of economic, social and cultural rights.

Official UN documents

In the compilation of UN documents,⁴ recent Argentina's ratification of some international instruments was welcomed,⁵ while concerns about reservations entered by the State to the *Convention of the Rights of the Child* were reiterated. The Committee on the Rights of the Child (CRC)⁶ recommended that Argentina withdraw these reservations.⁷ The extensive section dedicated to the promotion and protection of human rights focused on issues as equality and non-discrimination,⁸ right to life, liberty and security of person,⁹ administration of justice and rule of law,¹⁰ freedom of expression and association,¹¹ right to work,¹² right to social security and adequate standards of living,¹³ minorities and indigenous people,¹⁴ migrants and refugees.¹⁵ The political will of the previous Government to address human rights violations that occurred during the 1976-1983 military dictatorship was commended and it was recommended that the current Government continue on this way.¹⁶

³ A/HRC/WG.6/1/ARG/1, available at:

http://lib.ohchr.org/HRBodies/UPR/Documents/Session1/AR/A_HRC_WG6_1_ARG_1_S.pdf

⁴ A/HRC/WG.6/1/ARG/2, available at:

http://lib.ohchr.org/HRBodies/UPR/Documents/Session1/AR/A_HRC_WG6_1_ARG_2_E.pdf

⁵ Rome Statute of the International Criminal Court, OP-CAT, OP-CRC-AC

⁶ Committee of the Rights of the Childs (CRC).

⁷ Reservations entered by the Government of Argentina upon ratification of the Convention with respect to article 21 (b), (c), (d) and (e).

⁸ Committee on the Elimination of Racial Discrimination (CERD), Committee on the Elimination of Discrimination Against Women (CEDAW), CRC.

⁹ Special representative of the Secretary-General on the situation of human rights defenders, Committee Against Torture (CAT), CRC, Human Rights Committee (HRC), CEDAW, Committee on Economic, Social and Cultural Rights (CESCR).

¹⁰ CAT, CRC, High Commissioner for Human Rights (OHCHR), HRC, United Nations Children's Fund (UNICEF), Working Group on arbitrary detention.

¹¹ Special Rapporteur on freedom of opinion and expression, CEDAW, Special representative of the Secretary-General on the situation of human rights defenders.

¹² CEDAW, UNICEF.

¹³ CRC, CERD, HRC, CEDAW.

¹⁴ HRC, CERD, United Nations Development Programme (UNDP), CERD.

¹⁵ CAT, CERD.

¹⁶ UNDP.

Other relevant stakeholders

The stakeholder report is a summary of 22 submissions.¹⁷ Many of the issues raised were the same as those contained in the official documents. The absence of a national policy on gender issues and on domestic violence was stressed. The need of recognising and protecting the rights of homosexual and lesbian people raised concerns among NGOs engaged with LGBT rights. Nearly all stakeholders expressed concerns over the detention conditions, the use of torture in prisons, especially against sexual minorities, corporal punishment of children in the home and in schools, violence against women, violation of the freedom of expression, violation of indigenous people rights, and poverty. Several NGOs welcomed the efforts undertaken by the Government in persecuting military and police personnel responsible for disappearances, killing and torture during the military dictatorship.

Interactive dialogue¹⁸

Argentina used over 40 minutes for its opening presentation to the Working Group, therefore leaving little time to answer to all the questions raised by the Working Group during the interactive dialogue. The answers and explanations given by the delegation seemed somewhat vague. Partly, this might be due to the quality of the interpretation of the entire dialogue. There was no written version of the opening statement distributed in the room, and the poor quality of interpretation from Spanish to English, especially of the answers by the delegation, made the dialogue difficult to follow.

Presentation by the State

Dr Eduardo Luis Duhaldo, the Secretary of Human Rights at the Ministry of Justice, Security and Human Rights in Argentina started the opening presentation. He stressed the previous and present Government's commitment to implement a public policy inspired by the respect for human dignity and human rights. He highlighted that a critical revision of the past is a strategic step for the enhancement of democracy based on the protection of human rights. Dr Duhalde emphasised the fight against impunity for crimes against humanity committed by the military dictatorship (1976-1983) as a key priority for the Government of Argentina, and particularly highlighted the programmes aimed at defending the right to memory, truth and testimony of these victims.

The delegation briefed the Working Group on the national plan to counter discrimination, which also includes provisions for the follow up to the *Durban Declaration and Programme of Action*. The delegation proudly reminded that Argentina was the first GRULAC¹⁹ State to adopt the optional protocol to the *Convention*

¹⁷ A/HRC/WG.6/1/ARG/3, available at:

http://lib.ohchr.org/HRBodies/UPR/Documents/Session1/AR/A_HRC_WG6_1_ARG_3_Argentina_summary.pdf Action Canada for Population and Development, Asamblea Permanente por los Derechos Humanos, B'nai B'rith International, Centro de Estudios Legales y Sociales, Centro por el Derecho a la Vivienda contra Desalojos, Comité Latinoamericano para la defensa de los derechos de la mujer, Comité para la Defensa de la Salud, la Ética Profesional y los Derechos Humanos, Colectivo de Derechos de Infancia y Adolescencia, Comunidad Homosexual Argentina, Equipo Latinoamericano de Justicia y Género, Federación Internacional de los Derechos Humanos, Fundación para Estudio e Investigación de la Mujer, Fundación Sur Argentina, Global Initiative to End All Corporal Punishment of Children, Grupo de Mujeres de la Argentina-Foro de HIV Mujeres y Familia, Human Rights Watch, Lutheran World Federation, Mental Disability Rights International, Reporteros sin fronteras, Society for Threatened Peoples, Unrepresented Nations and Peoples Organizations, Defensor del Pueblo de la Nación Argentina.

¹⁸ Most statements made at the UPR Working Group can be found at <http://portal.ohchr.org/portal/page/portal/UPR/1session/>. Fill in the form at www.ohchr.org/english/bodies/hrcouncil/form.htm to receive username and password. Audiovisual archives of the meetings of the Working Group 'webcast' are available at www.un.org/webcast/unhrc/index.asp.

¹⁹ Latin American and Caribbean Group (GRULAC)

against Torture (OPCAT) and stressed the efforts that the State is undertaking to implement the provisions of OPCAT.

Attention was also drawn to efforts at improving detention conditions, in particular to the decision of the Supreme Court, in December 2007, to establish a body aimed at assessing and supervising prison conditions. Dr Duhalde assured that the Government is developing concrete measures to improve detentions conditions, and to accelerate trial procedures.

Responding to written questions submitted prior to the review, a different member of the delegation took the floor. She presented actions and programmes taken by the Government to combat trafficking in human beings, especially of children. In January 2005, the Government created within the Office of the Secretary for Human Rights a unit for the protection and eradication of sexual abuse of children, and programmes providing specific assistance and rehabilitation for victims of sexual abuse. The delegation also emphasised the existence of a commission for the eradication of child labour. Regarding the promotion and protection of sexual and reproductive rights, a law on responsible sexual health was adopted in 2002, trainings on sexual education are conducted all over the country and contraceptives are distributed.

Key issues

The majority of the States welcomed Argentina's presentation and applauded the high quality of the report and its presentation, and the constructive approach Argentina has taken towards the UPR. Several States²⁰ congratulated the Government for its cooperation with international human rights mechanisms, especially for having ratified most of the international human rights instruments.²¹ A number of States commended the efforts undertaken by Argentina in defending the human rights of its citizens and in addressing the human rights violations that occurred under the military dictatorship (1976-1983).²² Concerns and questions raised by the Working Group during the interactive dialogue focused mostly on the following issues: measures to combat impunity, programs for memory and truth, protection of human rights defenders and witnesses, detention conditions, measures to counter discrimination, violence against women and children, promotion and protection of the rights of vulnerable groups including migrants, indigenous people, and homosexuals, and implementation of treaty bodies' recommendations.

Colombia, during the interactive dialogue, reiterated the importance of the UPR as a unique opportunity to learn about new positive practices on human rights. In a general remark not directly related to the dialogue with Argentina, it suggested the creation of a 'good practices database' by OHCHR from which all States could draw inspiration.

Many States welcomed the efforts undertaken by Argentina to enhance democracy and persecute the crimes and violations committed under the dictatorship period. They asked for more clarifications on the national programs to combat **impunity** and to preserve the right to **memory, truth** and **testimony** of the victims of

²⁰ Nigeria, Azerbaijan, Peru, Ukraine.

²¹ Core universal human rights treaties to which Argentina is party: *International Convention on the Elimination of All Forms of Racial Discrimination (CERD)*, *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, *International Covenant on Civil and Political Rights (ICCPR)*, *Optional Protocol to the International Covenant on Civil and Political Rights, Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, *Optional Protocol to the Convention on the Elimination of Discrimination against Women*, *Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (CAT)*, *Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment*, *Convention on the Rights of the Child (CRC)*, *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*, *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*, *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)*, *International Convention for the Protection of All Persons from Enforced Disappearance (CED)*.

²² Brazil, Cameroon, Slovenia, Netherlands, United States of America, United Kingdom, Uruguay, Egypt, Russia Federation.

human rights' violations and their families.²³ Brazil questioned what specific measures have been adopted in order to combat impunity in relation to crimes against humanity perpetrated by the military regime. Cameroon requested clarification on steps undertaken to protect the witnesses of these crimes from any kind of threat or aggression, while Slovenia, the United States of America (the US), Canada and Switzerland recommended that Argentina improve the protection and personal safety of witnesses and their families.

Argentina, in its limited replies, recognised the importance of guarantying security to witnesses of State terrorism and announced the implementation of assistance and support programme for witnesses of human rights violations. It was noted that 99 persons have already accessed to this plan.

A number of States welcomed Argentina's efforts to counter **discrimination**, mainly focusing on racial discrimination. Algeria and the Russian Federation supported the campaign launched by the Government to combat discrimination and xenophobia, and asked what specific measures have been elaborated for the eradication of religious discrimination and for the promotion of inter-religious dialogue. Nigeria asked what steps have been taken to respond to the concerns expressed by CERD regarding racially motivated attacks by the police force. Colombia referred to the civil society, and asked about its role in developing the national plan to counter discrimination. Algeria recommended that Argentina 'enhance its cooperation' with regard to the preparation of the Durban Review Conference, and the elaboration of complementary standards by the Ad-Hoc Committee on Complementary Standards. Azerbaijan inquired what Argentina is doing to stop racial hatred and propaganda in the media while respecting the freedom of expression, as recommended by CERD.

Argentina provided no direct reply on the promotion of an inter-religious dialogue, nor did it provide evidence of the implementation of CERD's recommendations. The delegation highlighted the important role played by NGOs in reporting to the Government on the various form of discrimination occurring in the country, as well as their active role in developing anti-discrimination policies.

Many States expressed their concerns on **conditions of detention** and reminded Argentina of the importance of implementing recommendations by treaty bodies and Special Rapporteurs²⁴ on overcrowded prisons, the use of torture in prison, and imprisonment of minors and women. Canada recommended that Argentina address the problem of overcrowded prisons.²⁵

Slovenia noted that Argentina's detention system for pregnant women and those with children, as well as for minors, does not comply with international standards.²⁶ It recommended that Argentina prohibit life imprisonment for detainees under 18, elaborate alternative measures to detention, especially for pregnant women and mothers, and to put the *Penal Code* in line with international conventions. Azerbaijan inquired what actions have been adopted to improve hygienic conditions in prison. Germany noted the unrestricted use of pre-trial detention and sought clarification on what steps the Government intends to take to ensure that suspects are not detained longer than the time permitted by law. Peru and Guatemala asked for more details on the condition of prisons.

Regarding the use of **torture** by police forces, Sweden asked what measures have been taken by the Government to ensure that such crimes do not enjoy impunity.

The delegation of Argentina recognised the abuses occurring in the prisons. It assured the Working Group that severe punishments are applied to those policemen using torture against detainees. The delegation confirmed that efforts are being undertaken to address the problem of overcrowded prisons.

²³ Brazil, Cameroon, Slovenia, Netherlands, France, United States of America, Egypt.

²⁴ CRC, CAT and Special Rapporteur on Torture.

²⁵ Ukraine. Norway.

²⁶ Canada.

Concerns were raised by many States on human rights violations against vulnerable groups, such as **migrants, indigenous people, women and sexual minorities**. Brazil asked for more detailed information on the national plan launched to regularise the status of migrants. Azerbaijan welcomed the efforts undertaken by the Government to address the problem of vulnerable groups,²⁷ especially migrants, and asked about the new migration law.²⁸ France noted the existence of a black labour market and inquired Argentina on what measures it is taking to provide better working conditions, and facilitate migrants' access to the health and education systems. The United Kingdom recommended that Argentina continue efforts to reduce the high rate of poverty, which primarily affects vulnerable groups such as women and indigenous people. The Republic of Korea recommended that Argentina take steps for the promotion of indigenous people's rights, in particular increasing their representation in the public realm.²⁹ Germany asked what measures have been put in place to guarantee the respect of sexual reproductive rights and to reduce the high rate of mother mortality. Numerous States asked what measures have been adopted to combat violence against women and action taken to improve compliance with recommendations made by the Committee on the Elimination of all forms of Discrimination against Women.³⁰ Germany asked what concrete measures the Government is undertaking to guarantee equal treatment of sexual minorities.

The delegation of Argentina emphasised the attention the Government is paying to indigenous peoples' rights and admitted that there is a delay in developing a national legal framework for the respect of indigenous peoples' rights. Notwithstanding this legislative lack, the delegation highlighted the numerous efforts and initiatives launched by the Government, including the establishment of bilingual schools and the conduction of an indigenous population's census. Regarding the protection of the 'rights of persons with determined sexual preferences', the delegation reported that the Office of the Secretary for Human Rights had submitted its opinion to support a court case (*amicus curiae*) where a homosexual couple claimed pensions.

Another issue which raised concerns among members of the Working Group was the protection and promotion of the **rights of the child**. Many States sought clarification regarding the protection of children's rights,³¹ and Italy asked for more details about the law of 2005 abolishing the custodianship system. Italy recommended that Argentina take all necessary steps to guarantee rights to children as autonomous subjects of law.

The delegation drew attention to the adoption of the *Child and Adolescent Protection Act* in 2005, which gave application to the *Convention of the Rights of the Child* at a national level. It was recalled that this Act finally repealed the system of 'custodianship' created by law in 1919. The new law provides special protection for children's best interests and rights, and aims at abolishing any kind of violation and abuse of child's rights.

Adoption of the report [18 April 2008, 4:00 p.m.]

²⁷ Republic of Korea.

²⁸ Mexico, China.

²⁹ Mexico.

³⁰ Canada, Ukraine, United Kingdom, Uruguay, Chile, Republic of Syria.

³¹ Slovenia, Cameroon, Mexico.

Cuba introduced the report to the Working Group of behalf of the troika. The Ambassador of Cuba expressed his appreciation for the teamwork and sense of great responsibility that lead the work of the troika. He emphasised that the troika had worked with the delegation of Argentina in an open and transparent manner and that the report had sought to reflect the delegation's amendments. The Ambassador of Cuba announced an editorial amendment, adding Mexico to recommendation two of the report.

The delegation of Argentina reaffirmed its commitment to the universal promotion of human rights, and its support to the new UPR. It expressed gratitude to those States that took part in the interactive dialogue, and thanked the troika for its work.

The United Kingdom took the floor just before the adoption of the report. It asked for a right of reply, which it had been denied at the end of the interactive dialogue on 16 April regarding a comment made by the Ambassador of Argentina on the Falklands Islands. The delegation stressed that the Council, as well as the Working Group, are not the right place to discuss issue of sovereignty, and clearly affirmed that no negotiations on Falklands Islands' sovereignty would be initiated, unless the Falkland Islands would require so.

Ambassador Boudewijin Van Eenennaam of the Netherlands, Vice President of the Council and the Working Group, confirmed that a summary of the United Kingdom's statement would be added at the end of the section two of the report. This raised concerns by Egypt and South Africa, who recalled that the Working Group was at the stage of adopting the report and no longer in the interactive dialogue. Amending the report at this stage, they felt, would open the door to other amendments after the conclusion of the interactive dialogue.

Following the assurance by the Ambassador of Cuba that the situation was indeed exceptional and would not form a precedent, the Working Group accepted the inclusion of the paragraph. The Ambassador of Cuba stressed that the compromise found to please the United Kingdom was the result of long negotiations and had been agreed by all concerned parties.

After the adoption of the report, the Vice President announced the end of the 1st UPR session.

Closing of the 1st session of the UPR

The Ambassador of the Netherlands made short closing remarks at the end of the 1st session. He said that much important work had been achieved over the past two weeks. While the Working Group had entered the UPR with the commitment to carry out the process on a cooperative basis, it was initially unclear how it would develop. He highlighted that solutions had been found 'through good will' and the common desire to 'preserve the credibility of the Council, which depends to a large extent on success of UPR'. He recalled President Costea's intention to hold an informal meeting on the modalities of the UPR before the 2nd session starting on 5 May 2008. Regarding the modalities, he hoped that the Working Group would learn from the experience of the 1st session and adapt accordingly.

The Vice-President went on to recall that the adoption of the reports by the Council would be the next challenge. He expressed his hope that the Council would follow-up to the recommendations made by the UPR, and 'successfully carry out the objective of this UPR, which is to improve the situation of hr on the ground.'

The Ambassador of Japan, unusually, was given the floor for concluding comments since he will be leaving Geneva soon. He said when talking to delegations about their views of the 1st session of the UPR, he had heard some satisfaction and some disappointment. Overall, he said, the process had been successful.

However, he urged the Working Group and the Council to ‘keep focusing on real issues’ and stressed that the ‘world is watching closely how we will conduct our review’.

This marked the closing of the 1st session of the UPR. The next session is already starting two weeks later, from 5 to 19 May 2008.³²

³² The programme for the 2nd session is available at http://www.ishr.ch/hrm/council/upr/documents/timetable_upr_2nd.pdf.

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