
ARGENTINA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

During 2009, the conflict that had begun the previous year between the Government and the “Liaison Committee” (*Mesa de Enlace*), comprised of the Rural Society (*Sociedad Rural*), the Argentinean Rural Confederations (*Confederaciones Rurales Argentinas*), the Farming and Agricultural Cooperatives Confederation (*Confederación Intercooperativas Agropecuarias* – CONINAGRO) and the Agricultural Federation (*Federación Agraria*), organisations that bring together the largest rural producers in the country, continued. The dispute began because of an increase to the raw material exports, including soya, which is one of the most important products on the world market and is, therefore, an important source of profit for exporters. This conflict resulted in a increasing polarisation of the society between those who support and those who oppose the Government measures. At the same time, the economic conditions of the poverty stricken sectors of society deteriorated in 2009, resulting in an increase in social protests.

In this context, parliamentary elections took place in June. The defeat of the Government party candidates in the largest cities of the country was perceived as a deterioration of the national Government’s political power. This change in the political forces in Congress could have an impact on the way in which human rights defenders work. There have been warning signs of a lack of institutional capacity while the civil society, regardless of political or social differences, has been increasingly demanding greater transparency and accountability from State bodies.

In spite of the unfavourable scenario, the executive pushed forward a new law to regulate and democratise communication, which revealed a high concentration of media ownership and the lack of consensus on freedom of expression. Furthermore, it caused high levels of tension between those who promoted the law¹ and the media owners. It is important to highlight the fact that the new law replaces the former regulatory framework established by the last military dictatorship. Therefore, 2009 became a benchmark in the process to improve the legal framework for freedom of expression in

1/ The law passed is the product of years of discussion between sectors of civil society, universities, professionals and organisations from various communication associations.

Argentina insofar as, in addition to the Law on Audio-Visual Services, the law that eliminates certain forms of libel and slander that were provided for in the Criminal Code was also passed. This law provides that “in no case statements on matters of public interest or those that are not assertive will be considered to be libellous” and that “the crime of slander will not be considered to be damage to honour when [the expression] is related to an issue of public interest”. In May 2008, the Inter-American Court of Human Rights had urged the Argentinean State to reform these provisions².

The lack of security issue, which was pushed for by various political and social sectors, was once again at the centre of public attention. Discussions regarding the reduction in the age of legal responsibility, the criminalisation of social protest or the strengthening of the powers of the police reemerged. The increase in cases of torture, cruel or degrading treatment in detention centres – police stations and prisons – was also of great concern³. The lack of adequate investigation and administrative and legal sanctions reinforce these practices within a framework of institutional impunity.

It is worth highlighting that, throughout 2009, the Argentinean State continued with the process initiated in 2005 related to the trial of those responsible for crimes against humanity committed during the military dictatorship⁴. In this context, two laws were passed: the first law allows judges instructing cases of minor wrongful appropriations to obtain DNA samples in cases of child kidnapping⁵ “by various means other than body exams, such as from objects that contain cells from the body”. The DNA analyses enable the victims of child kidnapping to reinstate their true identity⁶. The second law allows legally registered human rights organisations

2/ See Inter-American Court of Human Rights, *Caso Kimel Vs. Argentina. Fondo, Reparaciones y Costas. Serie C No.177*. The journalist Eduardo Kimel was found guilty in criminal and civil proceedings by Argentinean justice for having carried out an investigation into a crime committed during the last military dictatorship in Argentina - the assassination of five catholic priests in 1976.

3/ See Document presented by the Legal and Social Studies Centre (*Centro de Estudios Legales y Sociales* - CELS) in the hearing about the Situation of Persons Deprived of their Freedom in Buenos Aires Province, Argentina, March 24, 2009.

4/ For more detailed information about the justice process for the crimes committed during the last dictatorship, see CELS Report, *Informe Anual 2010*, April 2010.

5/ The systematic kidnapping of boys and girls of those detained or disappeared was another practice of the dictatorship.

6/ However, according to the Peace and Justice Service (*Servicio Paz y Justicia* - SERPAJ), this law has some drawbacks, such as the fact that the National Bank for Genetic Information Data (*Banco Nacional de Datos Genéticos*) will only be used for cases related to the dictatorship and it will stop functioning as a public service for the wider population. Furthermore, people whose identity is reinstated will have their identity documents confiscated, forcing them to apply for new ones at their cost. Similarly, they will not have the right to compensation for the disappearance of their parents if the State has already

to act as the complainant in judicial procedures in which crimes against humanity are being investigated. However, although the participation of the organisations is a key element, the legal system does not allow the direct participation of victims. Rather, it obliges them to be represented by a body or a lawyer in order for them to be taken into account during the trial.

Moreover, the witness protection policy is not effective. The failure to investigate threats against witnesses is a factor that favours impunity for the crimes committed during the dictatorship. In addition, Argentinean legislation still does not include a provision for the crime of enforced disappearance.

In December 2009, scarcely 6% of the 1,179 people charged for crimes carried out during the dictatorship had been sentenced (68 sentences and seven acquittals) and only two of these sentences were confirmed⁷. In spite of the fact that there are approximately 330 ongoing cases across the country, justice continues to be excessively slow and with a variable media access, depending on the courts and the regions where they take place. The limited levels of publicity on these trials in some areas of the country – primarily in the federal capital – does not contribute to create a favourable public opinion of the justice process, nor does it contribute to the improvement of the protection of human rights defenders involved in the trials. In addition, the disappearance of surviving witness Julio López three years ago has not been resolved yet⁸. The existence of threats and the level of impunity related to the acts of harassment show that links between the repressive bodies of the dictatorship and the police in a democracy continue to exist.

Intimidation of human rights defenders involved in the judicial proceedings for crimes committed during the last dictatorship

Several of the human rights defenders involved in trials of crimes committed during the last dictatorship were victims of threats this year. Ms. **María Soledad Laruffa**, a member of the Merlo branch of the Argentinean Human Rights League (*Liga Argentina por los Derechos del Hombre* – LADH), received threats because of her activities to support the trial for the assassination of Floreal Avellaneda. These threats were reported to the Moron Federal Court, Buenos Aires province, on March 27. A request to include Ms. Laruffa in the National Programme for the

7/ See CELS Report, *Informe Anual 2010*, April 2010.

8/ Mr. Jorge Julio López disappeared on September 18, 2006 after having testified in one of the first hearings following the reopening of the trial. To date, it is not known what happened.

Protection of Witnesses and Defendants (*Programa Nacional de Protección de Testigos e Imputados*) was also sent to the national Government. The human rights defender Ms. **Laura Figueroa** filed a police report for the threats she received last year and she was therefore accepted onto the National Programme for Protection, Truth and Justice (*Programa Nacional de Protección Verdad y Justicia*). Furthermore, on November 21, 2009, Mr. **Mario Bosch**, complainants' lawyer in cases of crimes against humanity was arrested under the pretext of a speeding control and he was taken to a police station where he was detained for several hours. Mr. Bosch was injured after being handcuffed and he was refused permission to call someone. The police who detained him referred to him as "the human rights lawyer". Mr. Mario Bosch is the complainants' representative in the "Caballero" case in which the activities of the "police gangs" during the dictatorship that operated in the Clandestine Detention and Torture Centre that was part of the Investigations Brigade are investigated. Furthermore, it is important to highlight the fact that his detention took place just before an important phase of the trial of the Margarita Belén's Massacre⁹ began, in which Mr. Mario Bosch is key given that he is the complainants' representative. Mr. Bosch filed a report of the facts before the main police station in Chaco province.

The criminal operation carried out against a member of the Buenos Aires Province Human Rights Department, Ms. **Sara Derotier de Cobacho**, should also be mentioned. On December 30, 2009, two armed men broke in the Buenos Aires Province Human Rights Department. Ms. Sara Derotier de Cobacho and seven other people who were in the office at that time were tied up and threatened with guns. The men stole material related to crimes against humanity committed during the dictatorship and investigative documents carried out by the Department related to crimes in which the provincial police are involved, as well as Ms. Derotier de Cobacho's personal computer, mobile telephones and almost eight thousand pesos. The victims were able to identify one of the intruders, an ex-police officer in Buenos Aires, who was arrested on January 1, 2010 at his home, where the stolen money was found. On January 5, 2010, Ms. Derotier de Cobacho's personal computer that contained information about crimes committed by serving police officers was recovered. However, as of the end of 2009, the material related to the crimes against humanity during the dictatorship had not been found.

9/ In the "Margarita Belén massacre", 22 political prisoners were tortured and executed in the joint Argentinean army and Chaco police operation during the night of December 12-13, 1976, in a place close to Margarita Belén, Chaco province.

Harassment of defenders of economic and social rights

Throughout 2009, members of various organisations that belong to the Children of the Nation National Movement (*Movimiento Nacional Chicos del Pueblo*) continued to be subjected to acts of harassment, which took place within the framework of their campaign “Hunger is a crime. Not a child more” (“*El hambre es un crimen. Ni un pibe menos*”), in which more than 400 non-governmental organisations that belong to the Movement denounced and fought against child malnutrition. It is worth recalling that the Children of the Nation National Movement, together with the Argentinean Workers’ Federation (*Central de Trabajadores Argentinos – CTA*), organised a protest march that brought together approximately 50,000 people in Buenos Aires on December 12, 2008. This protest turned into a national protest against hunger in which claims were made to receive a subsidy for each child in the household in order to put an end to child malnutrition. The kidnapping of activists by groups of individuals with their faces covered and the mistreatment during the time they were held were the methods used to intimidate the members of this movement¹⁰. Specifically, in July 2009, a young teacher¹¹ at the Juan XXIII Home, a 21 year-old who belongs to the Don Orione congregation, and a woman¹² who worked at the Juan Salvador Gaviota Home, part of the “Pelota de Trapo” Foundation (*Fundación Pelota de Trapo*), were subjected to this practice. The organisations where they both work are members of the Movement. All of these events were reported to the relevant authorities but, as of the end of 2009, those responsible had not been identified. Given the situation, the organisations requested protection from the State, which the authorities denied them, alleging a lack of material and technical resources, and providing minimal protection with intermittent guards at the kidnapped activists’ places of work¹³. Furthermore, Ms. **Milagro Sala**, leader of the social organisation Tupac Amaru¹⁴, was a victim of defamation as a result of statements made by the then President of the Radical Civic Union (*Unión Cívica Radical – UCR*), Mr. Gerardo Morales, who had been assaulted on October 16, 2009 by picketers during a conference about the “control of State resources destined for social organisations” that took place in the

10/ Between September 2008 and July 2009, eight kidnappings of members of organisations that belong to the Children of the Nation National Movement were reported.

11/ For security reasons, the name of the teacher cannot be disclosed. He was victim of two further kidnappings on September 26, 2008 and November 27, 2008.

12/ For security reasons, the name of the collaborator cannot be disclosed.

13/ It is worth clarifying the fact that the guards themselves state that they are not prepared for such attacks.

14/ Tupac Amaru is a Jujuy neighbourhood organisation that focuses primarily on the promotion of health, education, housing, employment, and poverty eradication.

Jujuy Accountants Professional School. Mr. Morales accused Ms. Sala of heading up a structure linked to drug and arms trafficking¹⁵.

Finally, the incomplete investigation carried out into the assassination of Mr. **Carlos Fuentealba**, teacher and member of the Association of Neuquén Educational Workers (*Asociación de Trabajadores de la Educación de Neuquén – ATEN*)¹⁶, who was assassinated during a wage strike in Neuquén on April 4, 2007, shows the difficulty of access to justice for those who are victims of criminalisation for their participation in social protests.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Ms. María Soledad Laruffa	Threats / Harassment / Impunity	Urgent Appeal ARG 001/0309/OBS 053	March 30, 2009
		Urgent Appeal ARG 001/0309/OBS 053.1	April 8, 2009
A teacher from the Juan XXIII Home and a collaborator from the Juan Salvador Gaviota Home; Mr. Alberto Morlachetti ; Members of the “Pelota de Trapo” Foundation and of the Children of the Nation National Movement	Abduction / Release / Threats	Urgent Appeal ARG 002/0709/OBS 111	July 31, 2009
Mr. Carlos Fuentealba	Impunity / Assassination	Urgent Appeal ARG 003/1209/OBS 177	December 2, 2009
Mr. Mario Bosch	Arbitrary arrest	Urgent Appeal ARG 004/1209/OBS 181	December 4, 2009

15/ See CELS Report, *Informe Anual 2010*, April 2010.

16/ The strikes for better pay carried out by Neuquén teachers have been taking place since March 2007, due to the lack of agreement with the Government about the teachers' employment situation. They allege that the pay increase was insufficient and they complain about a lack of a written commitment to resolve the salary and employment situation of the assistants and administrative staff in the Provincial Education Council (*Consejo Provincial de Educación - CPE*).