



General Assembly

Distr.: General
13 August 2012
English
Original: English/Spanish

Human Rights Council
Working Group on the Universal Periodic Review
Fourteenth session
22 October–5 November 2012

**Compilation prepared by the Office of the High
Commissioner for Human Rights in accordance with
paragraph 5 of the annex to Human Rights Council
resolution 16/21**

Argentina

The present report is a compilation of the information contained in the reports of treaty bodies and special procedures, including observations and comments by the State concerned, and of the Office of the High Commissioner for Human Rights (OHCHR), and other relevant official United Nations documents. It is presented in a summarized manner due to word-limit constraints. For the full text, please refer to the document referenced. This report does not contain any opinions, views or suggestions on the part of OHCHR other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

I. Background and framework

A. Scope of international obligations¹

International human rights treaties²

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified/not accepted</i>
<i>Ratification, accession or succession</i>	ICERD (1968) ICESCR (1986) ICCPR (1986) CEDAW (1985) CAT (1986) OP-CAT (2004) CRC (1990) OP-CRC-AC (2002) OP-CRC-SC (2003) ICRMW (2007) CPED (2007)	CRPD (2008) ICCPR-OP 2 (2008)	
<i>Reservations, declarations and/or understandings</i>	ICCPR (Declaration art. 15) CEDAW (Reservation art. 29) CRC (Reservation art. 21 (b, c, d, and e); Declaration arts. 1, 38, 24 f) OP-CRC-SC (Declaration arts. 2, 3, 7) ICRMW (Declaration art. 92, para. 1)	-	
<i>Complaint procedures, inquiry and urgent actions³</i>	ICERD art. 14 (2007) ICCPR art. 41 (1986) ICCPR-OP 1 art. 1 (1986) OP-CEDAW arts. 1 and 8 (2007) CAT arts. 20, 21 and 22 (1986)	OP-ICESCR arts. 1, 10 and 11 (2011) OP-CRPD arts. 1 and 6 (2008) CPED arts. 31 and 32 (2008)	ICRMW arts. 76 and 77 OP-CRC-IC arts. 5, 12 and 13

Other main relevant international instruments

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified/not accepted</i>
<i>Ratification, accession or succession</i>	Convention on the Prevention and Punishment of the Crime of Genocide Rome Statute of the International Criminal Court Conventions on refugees and stateless persons ⁴ Geneva Conventions of 12 August 1949 and Additional Protocols I and II thereto ⁵ Palermo Protocol ⁶ ILO fundamental conventions ⁷ ILO Convention No. 169 ⁸ UNESCO Convention against Discrimination in Education	Additional Protocol III to the Geneva Conventions of 12 August 1949 ⁹	1961 Convention on the Reduction of Statelessness ILO Convention No. 189 ¹⁰

1. In 2011, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) encouraged Argentina to make the declarations provided for in articles 76 and 77 of the Convention¹¹ and to consider ratifying ILO Conventions No. 97 (revised 1949) concerning Migration for Employment and No. 143 (1975) concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers.¹²

2. In 2010, the Committee on the Rights of the Child (CRC) recommended that Argentina consider ratifying the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.¹³

3. CRC welcomed that the interpretative declaration made by Argentina on article 24 (f) regarding family planning had been abolished in 18 provinces and encouraged Argentina to ensure that this ensues in the remaining 6 provinces.¹⁴

4. In 2012, the Office of the United Nations High Commissioner for Refugees (UNHCR) continued to encourage Argentina to accede to the 1961 Convention on the Reduction of Statelessness. UNHCR further recommended that Argentina implement a statelessness status determination procedure to ensure the protection of stateless persons.¹⁵

B. Constitutional and legislative framework

5. In 2011, the Committee on Economic, Social and Cultural Rights (CESCR) acknowledged the adoption of the Equal Marriage Act.¹⁶

6. The United Nations Country Team (UNCT) drew attention to the adoption of the National Mental Health Act (No. 26657) in 2010 and recommended that the State should take the further legal and technical measures needed to implement this Act in Argentina.¹⁷

7. In 2010, the Committee on the Elimination of Racial Discrimination (CERD) noted that racial discrimination had not yet been defined as an offence in domestic law.¹⁸

8. In 2009, the Working Group on Enforced or Involuntary Disappearances recommended that Congress should grant constitutional status to the International Convention for the Protection of All Persons from Enforced Disappearance.¹⁹

9. The Working Group noted that, since 1994, there had been legislation on declaring persons missing by reason of enforced disappearance. However, it pointed out that Act No. 24321 referred only to persons who had gone missing up until 1983 and provided that the presumed date of disappearance should be established as the date recorded in the complaint to the competent authority or, as appropriate, the date of the most recent reliable news of the disappeared person.²⁰ The Group recommended that the legislature should introduce amendments to the Act in order to remedy these shortcomings.²¹

10. In 2010, the Committee on the Elimination of Discrimination against Women (CEDAW) welcomed the adoption of the law on violence against women, which covered all forms of gender-based violence.²²

11. In 2012, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, acknowledged the constitutional rank granted to the right to adequate housing.²³ Also, she recommended the adoption of a framework national law that incorporates international standards and sets out the budgets and basic criteria for all housing policies.²⁴

C. Institutional and human rights infrastructure and policy measures

Status of national human rights institutions²⁵

<i>National human rights institution</i>	<i>Status during previous cycle</i>	<i>Status during present cycle²⁶</i>
Defensoría del Pueblo de la Nación Argentina	A status (October 2006)	A status (October 2011)

12. CESCR recommended that Argentina consider amending the appointment procedures of the *Defensor del Pueblo* to make it possible to fill the post and avoid deadlocks.²⁷ CERD was concerned that the Ombudsman post had been vacant since April 2009.²⁸

13. In 2010, the Human Rights Committee (HR Committee) recommended that Argentina expedite the adoption of legislation for the establishment of an independent national preventive mechanism, as provided for in OP-CAT.²⁹

14. CEDAW expressed its concern that the federal Government lacked an efficient mechanism to ensure that the provincial governments fully implement the Convention.³⁰ The HR Committee made similar comments.³¹

II. Cooperation with human rights mechanisms

15. Argentina submitted a mid-term review regarding the follow-up to the recommendations put forward during the universal periodic review held in 2008.³²

A. Cooperation with treaty bodies³³

1. Reporting status

<i>Treaty body</i>	<i>Concluding observations included in previous review</i>	<i>Latest report submitted since previous review</i>	<i>Latest concluding observations</i>	<i>Reporting status</i>
CERD	August 2004	2008	February 2010	Twenty-first report due 2013

<i>Treaty body</i>	<i>Concluding observations included in previous review</i>	<i>Latest report submitted since previous review</i>	<i>Latest concluding observations</i>	<i>Reporting status</i>
CESCR	November 1999	2009	December 2011	Fourth report due 2016
HR Committee	October 2000	-	March 2010	Fifth report due 2014
CEDAW	July 2004	2008	July 2010	Seventh report due 2014
CAT	November 2004	-	-	Fifth and sixth reports overdue since 2008
CRC	September 2002	2008	June 2010	Fifth and sixth reports due 2016, initial OP-CRC-SC and OP-CRC-AC reports reviewed in 2010
CMW	-	2010	September 2011	Second report due 2016
CRPD	-	2010	-	Initial report: pending consideration
CPED	-	-	-	Initial report due 2013

16. The Subcommittee on Prevention of Torture visited Argentina in April 2012.

2. Responses to specific follow-up requests by treaty bodies

Concluding observations

<i>Treaty body</i>	<i>Due in</i>	<i>Subject matter</i>	<i>Submitted in</i>
HR Committee	2011	Detention conditions, use of torture, forced evictions of indigenous peoples	2011
CEDAW	July 2012	Law on violence against women, women's sexual and reproductive health	-

Views

<i>Treaty body</i>	<i>Number of views</i>	<i>Status</i>
HR Committee	3 ³⁴	Dialogue ongoing

B. Cooperation with special procedures³⁵

	<i>Status during previous cycle</i>	<i>Current status</i>
<i>Standing invitation</i>	Yes	Yes
<i>Visits undertaken</i>	<p>Special Rapporteur on the right to freedom of opinion and expression (25 June–2 July 2000)</p> <p>Special Rapporteur on freedom of religion or belief (23–30 April 2000)</p> <p>Independent expert on the right to development (March 2003) – country studies on the right to development, including Argentina</p> <p>Working Group on Arbitrary Detention (22 September–2 October 2003)</p>	<p>Working Group on disappearances (21–24 July 2008)</p> <p>Special Rapporteur on trafficking in persons, especially women and children (6–11 September 2010)</p> <p>Special Rapporteur on adequate housing (13–21 April 2011)</p> <p>Special Rapporteur on indigenous peoples (27 November–7 December 2011)</p>

	<i>Status during previous cycle</i>	<i>Current status</i>
<i>Visits agreed to in principle</i>	Working Group on Enforced or Involuntary Disappearances (postponed until 2008) Independent expert on the effects of economic reform policies and foreign debt on the full enjoyment of all human rights	Working Group on Arbitrary Detention (follow-up visit requested in 2008) Special Rapporteur on extrajudicial, summary or arbitrary executions
<i>Visits requested</i>		Special Rapporteur on extreme poverty (requested 2008) Special Rapporteur on water and sanitation (requested in 2008) Special Rapporteur on the right to food (requested in 2008) Special Rapporteur on the independence of judges and lawyers (requested in 2011) Independent Expert on foreign debt (requested in 2008, renewed May 2012)
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review, 22 communications were sent. The Government replied to 20 of these.	

17. In 2012 the Working Group on Enforced or Involuntary Disappearances indicated that since its establishment it had transmitted 3,449 cases to the Government; of those cases, 52 had been clarified on the basis of the source's information, 110 had been clarified on the basis of Government information, 2 were found to be duplications and 3,285 remained outstanding.³⁶ The Working Group also noted that in 2010 the Government had submitted a comprehensive human rights report, with particular reference to clarification of cases of enforced disappearances.³⁷

C. Cooperation with the Office of the High Commissioner for Human Rights

18. Argentina is covered by the Regional Office for South America. In 2012, OHCHR trained Argentinean state officials on follow-up to UPR recommendations and preparation for the second UPR cycle.³⁸ In 2011, OHCHR worked with Argentina towards the ratification of the Optional Protocol to ICESCR³⁹ and trained indigenous leaders and lawyers on the use of international human rights norms and mechanisms.⁴⁰

19. Argentina made annual contributions to OHCHR during the period 2008–2011, including to the Voluntary Fund for Victims of Torture and the Voluntary Fund for Indigenous Populations.⁴¹

III. Implementation of international human rights obligations

A. Equality and non-discrimination

20. UNCT observed that the State had made major efforts to combat discrimination against women at the national, provincial and municipal levels by strengthening the legislative framework, introducing institutional mechanisms and implementing public

equality policies. However, it was still necessary to reinforce those mechanisms and establish planning instruments for ensuring equality.⁴²

21. CEDAW urged Argentina to ensure that the rights of older women, women migrants, women with disabilities, and lesbians, bisexual and transgendered women are fully protected.⁴³

22. CERD viewed with concern reports of a perception of Argentina as a country with primarily white European origins. It recommended that Argentina step up its efforts to recognize itself as a multi-ethnic State.⁴⁴

23. CERD acknowledged that the 2010 population census included self-identification questions for the indigenous population and persons of African descent.⁴⁵ It was concerned, however, about the widespread perception that no population group of African descent existed in Argentina.⁴⁶

24. CRC was concerned at persistent reports of discrimination, social exclusion and abuse of indigenous children. It noted that disparities affecting the north-eastern and north-western provinces may lead to discrimination.⁴⁷

25. CMW recommended that Argentina adopt proactive measures to eliminate discriminatory stereotypes about migrant workers and their families, in political discourse as well as in the media.⁴⁸

B. Right to life, liberty and security of the person

26. In 2011, CMW urged Argentina to investigate the killings of the occupants of the *Parque Iberoamericano* and prosecute those responsible and to provide police officers with human rights training to ensure respect for the rights of migrant workers and their families.⁴⁹

27. The HR Committee noted with concern the abundance of information it had received on the frequent use of torture at police stations and in prisons, particularly in the provinces of Buenos Aires and Mendoza. It also indicated that very few of the cases reported led to investigations or trials and even fewer resulted in convictions.⁵⁰ CRC expressed great concern at the high number of allegations of torture in Buenos Aires province against juvenile offenders and street children.⁵¹

28. The HR Committee also noted that despite the information provided by the State party with regard to measures taken to improve living conditions in the country's prisons, the conditions in many of them remained a source of concern for the Committee. Those conditions included a high rate of overcrowding, violence inside prisons, the poor quality of services and insufficient satisfaction of basic needs, in particular with regard to hygiene, food and medical care.⁵² CEDAW noted information regarding a high number of women in prison, the persistence of violence against women detainees, the recurrence of vaginal searches and inspections, and instances of women being killed while in detention.⁵³ CRC expressed concern at reports of human rights violations having occurred in mental health institutions⁵⁴ and at the occurrence of suicides and self-inflicted injuries of children in detention, notably in the province of Buenos Aires.⁵⁵

29. The HR Committee highlighted the subsistence of legislation giving the police the power to detain persons for the sole stated purpose of verifying their identity, in violation of, inter alia, the principle of the presumption of innocence.⁵⁶

30. CEDAW urged Argentina to put in place a system to encourage women to report marital rape, as well as a set of indicators to assess trends in both the reporting and incidence of this crime.⁵⁷

31. CRC recommended that Argentina prohibit by law all violence against children, including corporal punishment in all settings.⁵⁸

32. In 2011, the Special Rapporteur on trafficking in persons, especially women and children, noted that the law on trafficking (No. 26.364) had limitations given the fact that victims over 18 had to prove that they did not give their consent to engage in activities to which they were subjected, and that short sentences were given to convicted traffickers.⁵⁹ The Special Rapporteur recommended that the proposed amendments to the law on trafficking be approved and that the Parliament take action to give constitutional status to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.⁶⁰

33. The Special Rapporteur also observed a number of challenges the Government must address to effectively combat trafficking in persons: the lack of comprehensive data; the weak coordination of anti-trafficking activities; and the insufficient availability of facilities and services to directly assist trafficked persons.⁶¹

34. The Special Rapporteur recommended, *inter alia*, that the Government establish a zero-tolerance policy with regard to corruption to ensure that any State agent involved in the crime of trafficking is duly prosecuted and severely punished. She also recommended that Argentina carry out a national study in collaboration with United Nations agencies and international organizations to inform evidence-based interventions.⁶²

35. UNHCR considered that measures should be adopted to ensure that refugees and asylum seekers, in particular women and girls, do not fall victim to human trafficking or migrant smuggling.⁶³ CEDAW⁶⁴ and CRC⁶⁵ expressed similar concerns.

36. CMW was concerned that migrant workers in an irregular situation were often subject to forced labour, abuse and exploitation, including inadequate pay, excessive working hours and restrictions on their freedom of movement, in particular in the textile industry, agriculture and domestic work. It was also concerned that migrant women in an irregular situation who engaged in domestic work were particularly exposed to exploitation, sexual violence and sexual harassment.⁶⁶

C. Administration of justice, including impunity and the rule of law

37. The HR Committee noted that, despite article 114 of the Constitution concerning the importance of having a balanced Council of the Magistrature, representatives of political organs close to the executive branch predominated at the expense of judges and lawyers. The State should take measures to achieve the balance envisaged in the Constitution regarding the composition of the Council of the Magistrature and to avoid situations in which the executive branch controls this body.⁶⁷

38. The HR Committee was concerned that a large percentage of prisoners remained in pretrial detention and at the long duration of such detention. It recommended that the State take measures to reduce the number of persons held in pretrial detention and its length by having greater recourse to precautionary measures or making greater use of bail or electronic bracelets.⁶⁸

39. The Special Rapporteur on adequate housing urged the Government to guarantee the right to an effective defence in eviction proceedings and recommended that the courts recognize persons threatened with eviction as parties to the proceedings. In that context, the Special Rapporteur strongly recommended that free legal aid be guaranteed to those who cannot afford a lawyer and that the relevant competent institutions, particularly the Public

Defence Service, be strengthened and given the resources they need to address the claims of vulnerable groups.⁶⁹

40. CERD was concerned about the failure to prosecute and punish those responsible for the perpetration of violent acts during forced evictions. It recommended that the Government investigate and punish those responsible for deaths and injuries occurring in connection with forced evictions in the provinces.⁷⁰

41. The HR Committee welcomed the progress made in the prosecution of persons responsible for serious human rights violations during the dictatorship.⁷¹ However, it drew attention to the intimidation of witnesses in such proceedings.⁷² CEDAW also commended efforts by Argentina to bring to justice perpetrators of crimes against humanity committed during the last dictatorship, but regretted that sexual violence against women in clandestine detention centres during that period was not punished.⁷³

42. The Working Group on Enforced or Involuntary Disappearances indicated that it had received reports that criminal prosecutions had been brought against alleged perpetrators in some 1,000 cases.⁷⁴ It added, however, that it had also received frequent expressions of concern over the slow pace of judicial proceedings.⁷⁵

43. CRC urged Argentina to ensure that juvenile justice standards are fully implemented; adopt a new law on juvenile justice consistent with the Convention and international standards; and seek technical assistance and other cooperation from the United Nations Interagency Panel on Juvenile Justice.⁷⁶

44. The HR Committee highlighted serious shortcomings in the operation of custodial institutions for children, including instances of collective punishment and strict confinement, and expressed its concern over the current juvenile criminal justice system, which, *inter alia*, made excessive use of internment.⁷⁷

D. Right to family life

45. CRC recommended that Argentina continue to take measures to ensure the access by all children to free birth registration and implement a specific birth registration strategy for indigenous communities.⁷⁸

46. CRC recommended that Argentina ensure that uniform regulations on foster care and extended family care be adopted and used in the entirety of its territory.⁷⁹

E. Freedom of expression, association and peaceful assembly, and right to participate in public and political life

47. The HR Committee welcomed the decriminalization of libel and slander in statements regarding topics of public interest.⁸⁰

48. CESCR was concerned about instances in which security forces and agents, public and private, resorted to reprisals and disproportionate use of force against persons participating in activities in defence of economic, social and cultural rights, in particular in the context of land disputes.⁸¹

49. In 2011, the ILO Committee of Experts on the Application of Conventions and Recommendations deplored the length of time that elapsed (over seven years) without any decision from the administrative authority on the Confederation of Workers of Argentina application for “trade union status”. The Committee pointed out the importance of this matter and again urged the Government to ensure that an immediate decision is reached.⁸² The HR Committee expressed a similar concern.⁸³

50. UNCT reported that the political participation of women had increased over the years. It drew attention to the high level of female participation in the national legislature (38 per cent in 2011) and the provincial legislature (27 per cent in 2009). The participation rate for women in local government was lower (8 per cent at the provincial level in 2011 and 10 per cent at the municipal level in 2010). In 2010, women formed a majority of members of the judiciary (54 per cent), but were less well represented in senior positions.⁸⁴

F. Right to work and to just and favourable conditions of work

51. UNCT reported that, despite the massive influx of women into the labour market in recent decades and the implementation of various institutional mechanisms to promote such participation, irregularities continued to exist (including vertical and horizontal segmentation and earning gaps).⁸⁵

52. CEDAW urged Argentina to take all necessary steps to enact legislation on sexual harassment in the workplace and to provide comprehensive protection to domestic workers.⁸⁶

53. CESCR urged Argentina to continue its efforts to reduce the informal sector of the economy with a view to promoting employment in the formal sector.⁸⁷

54. CESCR recommended that Argentina consider adopting the necessary reforms of the Union Act with a view to recognizing the basic collective rights of all categories of workers and labour unions and ensuring the full conformity of the national legislation with the international obligations of Argentina.⁸⁸

G. Right to social security and to an adequate standard of living

55. UNCT emphasized the efforts made by the State in implementing broad conditional income transfer programmes contributing to the reduction of poverty, although assessments of the scope of the reduction vary.⁸⁹

56. CRC welcomed the introduction in 2009 of the Universal Family Allowance per Child for Social Protection for families of those employed in the informal market and the unemployed.⁹⁰

57. CMW recommended that Argentina review the required length of residence for non-contributory social benefits; consider extending the universal child allowance to children of migrant workers in an irregular situation; and consider extending non-contributory social benefits to migrant workers and their families in an irregular situation in cases of extreme social vulnerability.⁹¹

58. The Special Rapporteur on adequate housing welcomed the revival of national housing policies. Nonetheless, she noted that a number of factors impeded the realization of the right to adequate housing in Argentina, including the lack of market regulation for land transactions; the lack of federal coordination in the formulation and implementation of housing policies; and a legal framework for evictions that failed to guarantee due process.⁹² She also recommended, with regard to informal settlements, the establishment of a framework for the recognition of rights and clear criteria for consolidating settlements and the promotion of a comprehensive regularization policy.⁹³

59. CESCR reiterated its concern over forced evictions which affected, in particular, migrants and indigenous peoples.⁹⁴

H. Right to health

60. UNCT expressed the view that one of the most crucial challenges to achieving the Millennium Development Goals continued to be the reduction of maternal mortality, the main cause of which was abortion complications. Although the tendency towards a gradual reduction in infant mortality had continued, it would be difficult for the country to achieve goal 5, to reduce the maternal mortality rate by three quarters between 1990 and 2015 (from 52 to 13 per 100,000 live births). Moreover, the fertility rate among adolescents remained high. There was a link between the probability of maternal death and early adolescent pregnancy, and this had implications for neonatal and child health, since the child of an adolescent mother was four to five times more at risk of neonatal morbidity and mortality.⁹⁵ UNCT recommended that policies for guaranteeing universal access to sexual and reproductive health should be strengthened and efforts to ensure that comprehensive sex education was included in the curriculum of all educational establishments in the country should be continued, with the aim of reducing the high adolescent pregnancy rate.⁹⁶ CEDAW,⁹⁷ CESCR,⁹⁸ CRC⁹⁹ and the HR Committee¹⁰⁰ expressed similar concerns or made similar recommendations.

61. The HR Committee was concerned by information regarding inadequate care for users of mental health services, in particular as concerns the right to be heard and the right to have access to legal assistance in connection with decisions relating to their internment.¹⁰¹

62. UNCT reported that HIV continued to particularly affect transsexuals, men who had sex with men, drug users and sex workers. Moreover, although by law testing was required to be voluntary, obligatory pre-employment testing continued to be carried out, sometimes without the knowledge of the person concerned.¹⁰²

I. Right to education

63. UNCT acknowledged that, in terms of education access and coverage, Argentina had very favourable indicators. However, there were substantial limitations on access to initial education and continuation in secondary school. UNCT added that regional and socioeconomic differences were very significant: at the national level the enrolment rate in preschool education for the richest quintile of homes was 74 per cent, while it dropped to 53.7 per cent for the lowest quintile.¹⁰³ CESCR¹⁰⁴ and CRC¹⁰⁵ expressed similar concerns.

64. UNCT also mentioned inequalities and violations in respect of the right to education of indigenous children and adolescents. The main problems were the inadequate availability of education, especially in secondary schools, the standard of basic education provided to the indigenous population at all levels, and teacher training. The percentage of the indigenous population without an education was almost double the national average.¹⁰⁶ The Special Rapporteur on the rights of indigenous peoples highlighted the need to expand existing bilingual intercultural education programmes with the participation of indigenous peoples in order to genuinely promote indigenous languages and cultures.¹⁰⁷

J. Persons with disabilities

65. CRC recommended that Argentina ensure that children with disabilities are included in the education system and in health insurance plans, as well as take all necessary measures to ensure the implementation of legislation providing services for children with disabilities and consider adopting specific legislation on the issue.¹⁰⁸

K. Indigenous peoples

66. CERD was concerned that indigenous peoples, in particular those living in Chaco Province, remained among the poorest and most marginalized groups.¹⁰⁹

67. In 2011, the Special Rapporteur on the rights of indigenous peoples stated that one central concern expressed by indigenous representatives during his visit had been the lack of legal security in respect of their rights to their traditional lands, and in particular the various problems and delays they faced in the land surveying process. He added that issues of special concern to the indigenous peoples included the series of evictions of members of indigenous communities from land claimed by them on the basis of their traditional occupancy and the existence of mining projects in or close to indigenous territories without effective prior consultations or participation by the indigenous peoples concerned in decision-making on those projects.¹¹⁰ The Special Rapporteur on adequate housing,¹¹¹ CERD,¹¹² CESCR,¹¹³ the HR Committee¹¹⁴ and the ILO Committee of Experts¹¹⁵ expressed similar concerns.

68. CESCR recommended that Argentina finalize the processes of land demarcation in all provinces, as foreseen by the law, and that it expedite the granting of communal land title to indigenous communities.¹¹⁶ CERD recommended that Argentina take the necessary effective steps to ensure that the law prohibiting forced eviction is applied equally throughout the national territory and that, where it is determined that eviction is necessary, Argentina ensure that those evicted from their lands receive adequate compensation.¹¹⁷

69. UNCT reported that in 2009, in view of the delays in the land demarcation process, the Indigenous Communities Act (No. 26554) was adopted, extending until 2013 the time limits laid down in Emergency Act No. 26160 on the possession and ownership of land traditionally occupied by indigenous communities and suspending all judicial or administrative acts for the eviction of those communities. It added that, although progress had been made, there were still delays in the process of land titling for indigenous communities, leading to failure to suspend indigenous evictions.¹¹⁸

L. Migrants, refugees and asylum seekers

70. UNHCR reported that some 3,360 refugees and 1,222 asylum seekers from more than 65 countries lived in Argentina. It added that 205 refugees had been resettled in Argentina from third countries.¹¹⁹

71. UNHCR acknowledged that decree No. 616/2010, regulating the Migration Law, provided that persons in need of international protection, who were not granted refugee status, may obtain legal residence on humanitarian grounds under the principle of non-refoulement. Also people affected by natural disasters, once in Argentine territory, may obtain a transitory residence.¹²⁰ It also welcomed the adoption, in 2011, of a “Protocol for the protection, assistance and search of durable solutions for unaccompanied or separated children seeking asylum”.¹²¹

72. UNHCR reported that the local integration of refugees and asylum seekers remained a major challenge. In the absence of a government assistance programme for local integration, refugees and asylum seekers were often facing serious difficulties. Asylum seekers’ access to socioeconomic rights was hampered by precarious and temporary documentation.¹²² UNHCR encouraged Argentina to design a comprehensive public programme or social policy to ensure proper social assistance for asylum seekers and durable solutions for refugees, or otherwise ensure effective access to social programmes, to facilitate their process of socioeconomic integration.¹²³

73. CERD noted with interest the way in which Argentina had dealt with migration issues, including its migration regularization programmes.¹²⁴ CMW acknowledged the regularization programmes for migrants from MERCOSUR and associated States and for migrants from non-MERCOSUR countries who are under a contract of employment. It recommended that Argentina ensure that migrant workers and members of their families in an irregular situation have effective access to information on existing procedures for regularizing their situation; facilitate migrant workers' access to regularization procedures; and review the definition of "migrant workers" to ensure that it covers self-employed workers, to enable self-employed migrants from non-MERCOSUR countries to gain access to regularization procedures.¹²⁵

74. UNCT called for the Argentine State to intensify its efforts to implement migration regulations by establishing intersectoral discussion forums and conducting awareness campaigns on migrants' rights.¹²⁶

75. CMW recommended, as well, that Argentina ensure, prior to issuing expulsion orders, that migrant workers unable to prove their legal entry have adequate time to apply for residence based on relevant circumstances, and that it intensify bilateral negotiations to find a solution for migrants who entered Argentina illegally.¹²⁷

76. CMW recommended that Argentina extend temporary residence permits for the period during which an appeal against decisions on the legality of a migrant's stay is pending.¹²⁸

77. The Special Rapporteur on adequate housing urged the competent authorities to repeal all criteria that discriminate against the migrant population in the allocation of social housing and to ensure that the right to adequate housing is guaranteed to the migrant population.¹²⁹

M. Right to development, including environmental issues

78. UNCT reported in 2012 that, despite being a middle-income country, Argentina was faced with the problem of narrowing the existing gaps between the various national regions. It added that the sharp contrasts in provincial development and the reduction of existing inequalities were becoming a major challenge, especially in the North-West and North-East regions.¹³⁰

79. CESCR was concerned about the negative impact caused by the increased use of chemical pesticides and transgenic soya seeds in regions traditionally inhabited or used by indigenous communities. It also noted the scale of deforestation, which had forced indigenous peoples to leave territories traditionally occupied or used by them.¹³¹

Notes

¹ Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 1 April 2009* (ST/LEG/SER.E/26), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>. Please also refer to the United Nations compilation on Argentina from the previous cycle (A/HRC/WG.6/1/ARG/2).

² The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR

ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
OP-CRC-IC	Optional Protocol to CRC on a communications procedure
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
CPED	International Convention for the Protection of All Persons from Enforced Disappearance

³ Individual complaints: ICCPR-OP 1, art 1; OP-CEDAW, art. 1; OP-CRPD, art. 1; OP-ICESCR, art. 1; OP-CRC-IC, art. 5; ICERD, art. 14; CAT, art. 22; ICRMW, art. 77; and CPED, art. 31. Inquiry procedure: OP-CEDAW, art. 8; CAT, art. 20; CPED, art. 33; OP-CRPD, art. 6; OP-ICESCR, art. 11; and OP-CRC-IC, art. 13. Inter-State complaints: ICCPR, art. 41; ICRMW, art. 76; CPED, art. 32; CAT, art. 21; OP-ICESCR, art. 10; and OP-CRC-IC, art. 12. Urgent action: CPED, art. 30.

⁴ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the Status of Stateless Persons.

⁵ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.

⁶ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

⁷ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

⁸ ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.

⁹ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III).

¹⁰ ILO Convention No. 189 concerning Decent Work for Domestic Workers.

¹¹ Concluding observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW/C/ARG/CO/1), para. 10.

¹² *Ibid.*, para. 11.

- ¹³ Concluding observations of the Committee on the Rights of the Child (CRC/C/OPSC/ARG/CO/1), paras. 27 and 28.
- ¹⁴ Concluding observations of the Committee on the Rights of the Child (CRC/C/ARG/CO/3-4), paras. 11 and 12. See also UNCT submission to the UPR on Argentina, p. 2.
- ¹⁵ UNHCR submission to the UPR, p. 6. See also UNCT submission, p. 9.
- ¹⁶ Concluding observations of the Committee on Economic, Social and Cultural Rights (E/C.12/ARG/CO/3), para. 5. See also UNCT submission, p. 7.
- ¹⁷ UNCT submission, pp. 5 and 11. See also E/C.12/ARG/CO/3, para. 5.
- ¹⁸ Concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/ARG/CO/19-20), para. 15.
- ¹⁹ A/HRC/10/9/Add.1, para. 84.
- ²⁰ *Ibid.*, para. 29.
- ²¹ *Ibid.*, para. 83.
- ²² Concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/ARG/CO/6), para. 6.
- ²³ A/HRC/19/53/Add.1, para. 13.
- ²⁴ *Ibid.*, para. 59.
- ²⁵ According to article 5 of the rules of procedure for the International Coordinating Committee (ICC) Sub-Committee on Accreditation, the different classifications for accreditation used by the Sub-Committee are: A: Voting Member (fully in compliance with each of the Paris Principles), B: Non-Voting Member (not fully in compliance with each of the Paris Principles or insufficient information provided to make a determination); C: No Status (not in compliance with the Paris Principles).
- ²⁶ For the status of national institutions accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/20/10, annex.
- ²⁷ E/C.12/ARG/CO/3, para. 7. See also CRC/C/ARG/CO/3-4, paras. 19 and 20.
- ²⁸ CERD/C/ARG/CO/19-20, para. 16.
- ²⁹ Concluding observations of the Human Rights Committee (CCPR/C/ARG/CO/4), para. 18. See also “El Subcomité para la Prevención de la Tortura concluye su primera visita a Argentina,” press release issued at the end of the visit to Argentina of the Subcommittee on Prevention of Torture, April 27, 2012. Available from www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=12095&LangID=S.
- ³⁰ CEDAW/C/ARG/CO/6, para. 11.
- ³¹ CCPR/C/ARG/CO/4, para. 8.
- ³² See www.ohchr.org/EN/HRBodies/UPR/Pages/UPRImplementation.aspx.
- ³³ The following abbreviations have been used for this document:
- | | |
|--------------|--|
| CERD | Committee on the Elimination of Racial Discrimination |
| CESCR | Committee on Economic, Social and Cultural Rights |
| HR Committee | Human Rights Committee |
| CEDAW | Committee on the Elimination of Discrimination against Women |
| CAT | Committee against Torture |
| CRC | Committee on the Rights of the Child |
| CMW | Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families |
| CRPD | Committee on the Rights of Persons with Disabilities |
| CED | Committee on Enforced Disappearance |
- ³⁴ CCPR/C/101/D/1458/2006, CCPR/C/101/D/1608/2007, CCPR/C/102/D/1610/2007.
- ³⁵ For the titles of special procedures, see www.ohchr.org/EN/HRBodies/SP/Pages/Themes.aspx and www.ohchr.org/EN/HRBodies/SP/Pages/Countries.aspx.
- ³⁶ A/HRC/19/58/Rev.1, annex I, para. 23.
- ³⁷ *Ibid.*, annex I, para. 18.
- ³⁸ “ACNUDH realizó capacitaciones sobre el Examen Periódico Universal en Argentina”, available from <http://acnudh.org/2012/04/acnudh-realiza-capacitaciones-sobre-el-examen-periodico-universal-en-argentina/>.
- ³⁹ OHCHR, *Report 2011*, p. 98.
- ⁴⁰ “Líderes indígenas de todas las provincias argentinas participaron en capacitación de ACNUDH”,

- available from <http://acnudh.org/2011/09/lideres-indigenas-de-todas-las-provincias-argentinas-participaron-en-capacitacion-de-acnudh/>.
- 41 OHCHR, *2008 Report: Activities and Results*, pp. 174, 179, 183, 186; OHCHR, *2009 Report: Activities and Results*, pp. 190, 200; OHCHR, *2010 Report*, pp. 79, 101; OHCHR, *2011 Report*, pp. 125, 133, 147, 152, 158, 160, 162.
- 42 UNCT submission, p. 3.
- 43 CEDAW/C/ARG/CO/6, paras. 43 and 44.
- 44 CERD/C/ARG/CO/19-20, para. 27.
- 45 *Ibid.*, para. 18.
- 46 *Ibid.*, para. 24.
- 47 CRC/C/ARG/CO/3-4, paras. 31 and 32.
- 48 CMW/C/ARG/CO/1, paras. 17 and 18.
- 49 *Ibid.*, para. 20.
- 50 CCPR/C/ARG/CO/4, para. 18.
- 51 CRC/C/ARG/CO/3-4, para. 42.
- 52 CCPR/C/ARG/CO/4, para. 17.
- 53 CEDAW/C/ARG/CO/6, paras. 27 and 28.
- 54 CRC/C/ARG/CO/3-4, paras. 44 and 45.
- 55 *Ibid.*, paras. 38 and 39. See also CCPR/C/ARG/CO/4, para. 14 and UNCT submission, p. 2.
- 56 CCPR/C/ARG/CO/4, para. 15.
- 57 CEDAW/C/ARG/CO/6, paras. 23 and 24. See also CCPR/C/ARG/CO/4, para. 11. See also UNCT submission, p. 10.
- 58 CRC/C/ARG/CO/3-4, paras. 46, 47 and 48.
- 59 A/HRC/17/35/Add.4, para. 84. See also CRC/C/OPSC/ARG/CO/1, paras. 7, 8 and 9 and E/C.12/ARG/CO/3, para. 17.
- 60 A/HRC/17/35/Add.4, paras. 93 (a) and 94.
- 61 *Ibid.*, p. 1.
- 62 *Ibid.*, paras. 93 (g) and (k). See also UNCT submission, p. 2.
- 63 UNHCR submission to the UPR, p. 3.
- 64 CEDAW/C/ARG/CO/6, paras. 45 and 46.
- 65 CRC/C/ARG/CO/3-4, paras. 71 and 72.
- 66 CMW/C/ARG/CO/1, paras. 21 and 22. See also A/HRC/17/35/Add.4, para. 94 (m).
- 67 CCPR/C/ARG/CO/4, para. 10.
- 68 *Ibid.*, para. 16.
- 69 A/HRC/19/53/Add.1, para. 68.
- 70 CERD/C/ARG/CO/19-20, para. 21.
- 71 CCPR/C/ARG/CO/4, para. 4. See also “‘Los torturadores serán llevados ante la justicia tarde o temprano’ – Jefa de derechos humanos de las Naciones Unidas”, statement of the High Commissioner for Human Rights, 26 June 2011, available from www.oacnudh.org/?p=453.
- 72 CCPR/C/ARG/CO/4, para. 21.
- 73 CEDAW/C/ARG/CO/6, para. 25.
- 74 A/HRC/10/9/Add.1, para. 58.
- 75 *Ibid.*, para. 59.
- 76 CRC/C/ARG/CO/3-4, para. 80. See also UNCT submission, p. 11.
- 77 CCPR/C/ARG/CO/4, para. 23.
- 78 CRC/C/ARG/CO/3-4, para. 41.
- 79 *Ibid.*, paras. 52 and 53.
- 80 CCPR/C/ARG/CO/4, para. 3.
- 81 E/C.12/ARG/CO/3, para. 12.
- 82 ILO Committee of Experts on the Application of Conventions and Recommendations, Observation concerning the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), 2011, published 101st ILC session (2012), available from: www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:1340393323101991::NO:13100:P13100_COMMENT_ID:2698626:NO.
- 83 CCPR/C/ARG/CO/4, para. 22.
- 84 UNCT submission, p. 7. See also CEDAW/C/ARG/CO/6, paras. 5, 31 and 32.

- 85 UNCT submission, p. 6.
- 86 CEDAW/C/ARG/CO/6, paras. 35 and 36. See also E/C.12/ARG/CO/3, para. 16.
- 87 E/C.12/ARG/CO/3, para. 15.
- 88 *Ibid.*, para. 19.
- 89 UNCT submission, p. 4.
- 90 CRC/C/ARG/CO/3-4, paras. 21 and 22.
- 91 CMW/C/ARG/CO/1, paras. 29 and 30. See also E/C.12/ARG/CO/3, paras. 15 and 20.
- 92 A/HRC/19/53/Add.1, p. 1.
- 93 *Ibid.*, para. 66.
- 94 E/C.12/ARG/CO/3, para. 21.
- 95 UNCT submission, p. 4.
- 96 *Ibid.*, p. 11.
- 97 CEDAW/C/ARG/CO/6, paras. 37 and 38.
- 98 E/C.12/ARG/CO/3, para. 22.
- 99 CRC/C/ARG/CO/3-4, paras. 58 and 59.
- 100 CCPR/C/ARG/CO/4, para. 13.
- 101 *Ibid.*, para. 24.
- 102 UNCT submission, p. 6.
- 103 *Ibid.*
- 104 E/C.12/ARG/CO/3, para. 24.
- 105 CRC/C/ARG/CO/3-4, paras. 67 and 68.
- 106 UNCT submission, p. 6. See also CERD/C/ARG/CO/19-20, para. 19.
- 107 “Argentina: experto de la ONU urge a mejorar la situación de los pueblos indígenas”, press release of the Special Rapporteur on the rights of indigenous peoples, 7 December 2011, available from www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11701&LangID=E. See also UNCT submission, p. 11.
- 108 CRC/C/ARG/CO/3-4, paras. 56 and 57.
- 109 CERD/C/ARG/CO/19-20, para. 29.
- 110 Press release of the Special Rapporteur on the rights of indigenous peoples (note 107 above).
- 111 A/HRC/19/53/Add.1, paras. 49 and 71.
- 112 CERD/C/ARG/CO/19-20, para. 26.
- 113 E/C.12/ARG/CO/3, para. 9.
- 114 CCPR/C/ARG/CO/4, para. 25.
- 115 ILO Committee of Experts on the Application of Conventions and Recommendations, Observation concerning the Indigenous and Tribal Peoples Convention, 1989 (No. 169), 2011, published 101st ILC session (2012), available from: www.ilo.org/dyn/normlex/en/f?p=1000:13100:1340393323101991::NO:13100:P13100_COMMENT_ID:2700473.
- 116 E/C.12/ARG/CO/3, para. 8.
- 117 CERD/C/ARG/CO/19-20, para. 26.
- 118 UNCT submission, p. 3.
- 119 UNHCR submission to the UPR, p. 1.
- 120 *Ibid.*, p. 2.
- 121 *Ibid.* See also UNCT submission, pp. 8 and 9.
- 122 UNHCR submission to the UPR, p. 4.
- 123 *Ibid.*, p. 5.
- 124 CERD/C/ARG/CO/19-20, para. 11.
- 125 CMW/C/ARG/CO/1, paras. 33 and 34.
- 126 UNCT submission, p. 8.
- 127 CMW/C/ARG/CO/1, paras. 23 and 24.
- 128 *Ibid.*, paras. 25 and 26.
- 129 A/HRC/19/53/Add.1, para. 74.
- 130 UNCT submission, p. 1.
- 131 E/C.12/ARG/CO/3, para. 10.