



**Programa  
"Género,  
Sociedad y  
Universidad" UNL**



## SHADOW REPORT FOR THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

46<sup>th</sup> SESSION – JULY 2010<sup>1</sup>

### INTRODUCTION

ELA – *Equipo Latinoamericano de Justicia y Género* (ELA); COHRE – Center on Housing Rights and Evictions (COHRE); the *Programa "Género, Sociedad y Universidad"*, *Secretaría de Extensión de la Universidad Nacional del Litoral* ("Programa de Género"), ADN – *Acción por los derechos en el Noroeste* (ADN); and the *Asociación por los Derechos Civiles* (ADC), are non-governmental organizations and research centers of the Republic of Argentina ("Argentina") that have their headquarters in Buenos Aires and/or in cities in Argentinean provinces.

The above institutions have the pleasure of presenting their Shadow Report to the Committee of the Convention on the Elimination of all Forms of Discrimination Against Women (the Committee and the CEDAW, respectively), for the 46<sup>th</sup> Session in July of 2010. This Report is the continuation of the list of priority topics presented by ELA and other organizations in previous years<sup>2</sup>, which we have expanded, updated and modified in accordance with the relevant changes and observations that we have gathered up until the present.

In its report and in the document responding to the list of questions raised by the Committee<sup>3</sup>, the Argentinean State lists an impressive number of recently approved laws for the recognition of rights. However, the State fails to mention deficiencies in the effective application of these laws, particularly in the different regions of the country. This is particularly relevant in the context of a country that has incorporated the main human rights treaties into its National

<sup>1</sup> This is a translation into English of a document originally drafted in Spanish. In case of discrepancies, the Spanish version should prevail.

<sup>2</sup> The list of priority issues for the preparatory session of the Committee was submitted on October 2008 by ELA together with PRADE, MEI – *Fundación Mujeres en Igualdad*, ANDHES – *Abogadas y Abogados del Noroeste en Derechos Humanos* and El Agora.

<sup>3</sup> CEDAW/C/ARG/Q/6/Add.1.

Constitution, bestowing them with constitutional standing. Despite a broad recognition of human rights, however, these rights continue to be violated on a daily basis.

The Republic of Argentina has a representative, republican, and federalist form of government, consisting of the union of twenty-three provinces (and the autonomous city of Buenos Aires since the constitutional reform of 1994) which retain all powers not delegated to the national government. According to the powers delegated to the nation, only the Federal Government has the power to sign, approve, and ratify international treaties. Given that noncompliance with the obligations of international treaties causes international State responsibility, it is important to scrutinize the mechanisms that the national government will implement in order to apply the standards of international human-rights treaties in the context of a federalist form of government, which delegates to the provincial governments many sectors related to the effective application of rights, such as education and health.

Moreover, in order to design adequate public policies that improve the implementation of rights established in constitutional and international norms, it is critically important to have a statistical system that allows the government to identify progress, difficulties, and opportunities in the distinct regions of the country. For this, reliable and specific statistical information is needed. Despite the recommendations from the Committees of the United Nations and of CEDAW in particular, many government agencies do not disaggregate statistical information by sex.

To cite some examples: the National Office of Migration (*Dirección Nacional de Migraciones*) does not provide all information disaggregated by sex even though the Argentinean government claims in its report that more than half of immigration-permit applications approved through December of 2007 correspond to women. Also, neither does the Federal Administration of Public Revenue (*Administración Federal de Ingresos Públicos*, AFIP), making it impossible to know the impact of tax policies on men and women. Official statistics on demographics, health, and education are released with at least a year's delay. Statistics on health indicators are not sufficiently disaggregated to understand local realities.

As the Committee has stressed on other occasions, it is still necessary for Argentina to improve in the **production of statistics disaggregated by sex** that will allow for the development of specific assessments of the situation of women in distinct sectors.<sup>4</sup> For example, the study of division of labor, reproductive work, and care for dependent members of the household is practically absent from current statistical investigations in Argentina.<sup>5</sup> For this reason, it is necessary and urgent that the State design a specific survey, conducted at regular intervals, to identify particular difficulties, responsibilities, and necessities related to care-giving activities, or else take the necessary measures so that the already established Continuing Survey of Households (*Encuesta Permanente de Hogares*, EPH) can be an adequate instrument.

In its response to the list of questions raised by the Committee in relation to the production of sex segregated data the Argentine state makes reference to the creation of an Observatory of Violence, in the context of the Integral Law for the protection of violence against women (*Observatorio de Violencia, Ley Protección Integral contra la violencia contra las mujeres*) – this will be dealt with in more detail in the following pages. Argentina does not provide

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<sup>4</sup> The government's obligation to produce data disaggregated by sex has been pointed out to the Argentinean government by various committees monitoring international human-rights agreements.

<sup>5</sup> Only the 2001 Survey on Living Conditions (*Encuesta de Condiciones de Vida*) included questions aimed at understanding the distribution of caregiving tasks. In addition, in 2005, a Time Use Survey (*Encuesta de Uso del Tiempo*) was conducted in the city of Buenos Aires and is representative of the city's resident population.

information regarding the economic and human resources, or faculties of this Observatory which, as of June 2010 has not started to function.

This report is founded on the research of the signing organizations<sup>6</sup> and based primarily on public information and official statistics, with the understanding that some findings are limited by the unsatisfactory depth and scope of the available data. We have based our report in particular on the Continuing Survey of Households (*Encuesta Permanente de Hogares*, EPH) of the National Institute of Census and Statistics (*Instituto Nacional de Estadísticas y Censos*, INDEC), the official technical organization which, since its creation in 1968, has been responsible for information-gathering and the compilation of all official statistical activity throughout Argentina, including data obtained through large samples of households. This statistical information is utilized for, among other things, the design of public policies and of different types of indexes. Worthy of attention is the fact that INDEC's data collection and compilation, as well as the resulting indexes, have suffered from the intrusion of political powers since 2007. Despite innumerable criticisms and a condemnation from a court of justice, the situation has not improved and, worse still, there are no signs of a decision to repair the situation that has resulted in a loss of confidence in the official statistics and indexes.<sup>7</sup>

A fundamental prerequisite of all full democracies in order to facilitate civil participation is access to public information, which is only made possible by the release of statistical information without intervention by political powers, which is the State's obligation under various international treaties, including CEDAW.

For this reason, ELA (along with a group of organizations and academics)<sup>8</sup> has warned of the gravity of the problem and the risk entailed in such gaps in the statistical system, since it is precisely these data that allow for the development and comparison of main socioeconomic indicators and the advancement of social investigation; these data also constitute the basis for discussion in collective-bargaining processes and the design of public policies, among other objectives. It must not be overlooked that a trustworthy and dependable system of national statistics allows for the evaluation of State actions and public policies, as well as the extent of advancement of social and economic rights.

Therefore, we suggest the incorporation of the following final recommendation:

**The Committee is preoccupied for the lack of information regarding measures taken to ensure compliance with international obligations in all areas of the country, with information about the institutions for the advancement of women in charge of monitoring**

<sup>6</sup> Among these, ELA – Equipo Latinoamericano de Justicia y Género, *Informe sobre Género y Derechos Humanos. Vigencia y respeto de los derechos de las mujeres en Argentina (2005-2008)*, Buenos Aires, Editorial Biblos. In the future referred to as ELA, 2009.

<sup>7</sup> Among other problematic situations, in addition to the express condemnation of the manipulation of statistical information, is the number of changes introduced in the development of indexes such as the national Consumer Price Index. As a result, the measurements of the total market basket (*Canasta Básica Total*) and food basket (*Canasta Básica Alimentaria*) were questioned by national and international experts as well as the very employees of the statistical institute. The situation is exacerbated by the methodological changes introduced in an important informational source, the EPH, making it impossible to conduct comparisons or analyze historical trends since these changes. It is also worth mentioning that during the first quarter of 2007, the first six months of 2008, and all of 2009, the EPH databases, which had previously been available on the Institute's website, were inaccessible.

<sup>8</sup> A significant group of organizations and investigators has initiated a lawsuit against the Argentinean government so that the situation may be investigated and reversed.

**this compliance. Also, the Committee is concerned by the lack of information regarding these institutions' resources (economic, human, infrastructural, and legal).**

**In particular, considering the current deficiencies of the national statistics system, the Committee points out the importance to take measures to obtain trustworthy statistics, disaggregated by sex and in the records of public agencies at the provincial and national level.**

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Basing our conclusions on the obtained statistical data, the conclusions of academics, and our own observations, we have concluded that in the various aspects of women's lives in Argentina that are indicated in this report, the State either fails to comply with the standards established in CEDAW, or its compliance is merely a formality without producing the necessary impact or results for the definitive eradication of discrimination against women, as required by CEDAW.

## **I. ROLES AND GENDER STEREOTYPES. VIOLENCE AGAINST WOMEN**

### **Article 5**

The States Parties shall take all appropriate measures (a) to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

The continual perpetuation of acts of violence against women, physical and psychological, in different degrees and forms, is a result of the presence of social norms that permit the mistreatment of women in this manner, when already their condition is inferior to that of men, the main perpetrators. In addition to physical and economic superiority, violent men benefit from society's permissive attitudes and, worse still, from a government that leaves their actions unpunished. As detailed below, **Argentina does not fulfill the obligations laid out in the CEDAW, not only for its failure to apply and implement adequate national public policies to confront the problem of violence, but also for its failure to facilitate the production of trustworthy data to track cases, types, and consequences of gender-based violence.**

Argentina does not have statistical information about the magnitude or types of violence that affect women in different aspects of their lives. As a result, it is impossible to know what forms of violence women face on a daily basis, the frequency of the violence, the traits of the actors/perpetrators, the nature of societal responses, and the response of the judicial system. Nonetheless, **we clearly observe certain situations which put the nation's female population at constant risk, and which the government has made negligible progress in addressing.**

- (a) **Absence of public policies coordinated at the national level to confront, punish, and prevent domestic violence.**

Argentina lacks national, provincial, and local public policies for the prevention and eradication of violence in line with international commitments; the current attempts to prevent or address the issue of violence are isolated actions that do not amount to a government policy.

The National Congress' recent approval of Law No. 26.485 or the Comprehensive Law Against Violence (*Ley Integral de Violencia*) in March 2009 attempts to be the guiding instrument for all actions on the part of the State. This legislative approval attempts to liberate the State from having to design other public policies on the subject or take additional measures to make the law enforceable. In addition, we observe that the Comprehensive Law Against Violence is not clear about its relation to other laws on violence (the law against human trafficking, laws related to protection of children) or specific laws in Argentinean provinces. The detailed regulation of the Comprehensive Law Against Violence, a process coordinated by the National Council of Women (*Consejo Nacional de las Mujeres*, CNM) is still awaiting finalization; thus, more than a year after its approval, it is not yet possible to determine a strategy to assure the application of the law throughout the country.

The Comprehensive Law Against Violence delegates to the most significant institution for the advancement of women, the National Council for Women (CNM), very important responsibilities for the implementation of its provisions (in addition to the coordination of the process to design its detailed regulation, as mentioned in the previous paragraph). However, the CNM **lacks strong national leadership as well as adequate human and economic resources to pursue concrete policies**, as it does not receive sufficient funds from the national government for the application of the law. For this reason, until now, there have been only isolated actions in some areas of the country, with insufficient coordination to secure efforts for violence prevention or to solve the problems that the law attempts to confront.

The Argentinean government often cites the creation of the Office of Domestic Violence (*Oficina de Violencia Doméstica*, or OVD) as an innovative strategy for confronting the problem of violence against women. However, it must be noted that the OVD was created by the Supreme Court of the Nation (*Corte Suprema de Justicia de la Nación*) and operates under its control. In other words, the OVD was the judiciary's response to the problems it observed in the handling of cases of violence that were reported to the civil courts.<sup>9</sup> Consequently, the Supreme Court created the OVD, which has operated since September 15, 2008, exclusively in the city of Buenos Aires, in order to receive reports of domestic violence (by both male and female complainants). The OVD functions as a gateway for cases which are later referred, as appropriate, to either civil or criminal courts in the city of Buenos Aires.

The OVD, though a valiant initiative by the judiciary, is not and cannot be a public policy, and it lacks the institutional capacity to address the many social needs of victims of violence: subsidies, housing, job training, employment, care for children and other dependent individuals in the household, psychological assistance. Therefore, it is crucial that adequate public policies be designed and implemented by the government at the provincial and national levels, and that these policies be coordinated with the other branches of government and with the nation's various jurisdictions.

One of the main problems we observe in the initiatives of the Argentinean government with regard to violence against women is the **lack of coordination among the partial initiatives that are being carried out by different departments, ministries, branches of government, and jurisdictions (city, provincial, and national)**. For instance, in the city of Buenos Aires there are the following coexisting services: those provided by the OVD as previously described, services rendered by the Dirección General de la Mujer of the City of Buenos Aires, the program "*Las Víctimas contra las Violencias*" under the National Ministry of Justice and

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<sup>9</sup> For example, excessive delays in completing risk evaluations that would permit injunctive relief barring the aggressor from the household.

Human Rights, the CNM which even though it is not a direct service provider, it nonetheless designs campaigns for rights training. Similarly, other initiatives exist in the level of Municipalities, Provinces, Ministries and several Secretaries (in the areas of Human Rights, Labor, Women, Justice).

Therefore, we suggest the incorporation of the following final recommendation:

**The CEDAW Committee is concerned with the lack of a national authority with sufficient legitimacy, institutional structure, and human and economic resources that may coordinate and centralize the diverse initiatives relating to violence against women into a comprehensive public policy, both at national level and in provincial jurisdictions.**

- (b) Victims of violence who lack resources are not guaranteed legal representation, and this lack of representation (access to justice) is one of the greatest obstacles that women face when seeking protection from situations of domestic violence.**

Access to justice is a key element in the strategy to eradicate violence against women. Difficulties with access to justice constitute without a doubt the greatest discrimination faced not only by women but other socially disadvantaged groups, who find themselves unable to exercise, and demand the fulfillment of, basic rights recognized by the laws, constitutions, and international conventions. Going beyond the mere approval of new legislation for the protection of women that are victims of violence and taking into account the necessity of guaranteeing the full exercise of their rights, it is crucial to reflect on the difficulties that these women face when seeking legal recourse. Although the protection provided by the law is only a part of the recourses needed to overcome the problem of violence, starting the legal proceeding that could resolve the critical problem (and pursuing the complete judicial process) is fundamental in order to begin putting an end to the violence. Thus, in order to assure that victims of violence are able to overcome structural obstacles to justice, it is necessary to study the impact of gender in justice reform, to move forward with the nomination of judges to replace the substitute judges presently serving on the bench, and to revise judicial procedures to reduce the delays that are currently created in many of the proceedings brought before the courts.

In this regard, the lack of understanding of the law, as demonstrated by a survey of 1,600 women in the nation's three principal urban centers, brings to light the absence of awareness campaigns about domestic-violence laws, even in the capital cities of jurisdictions where such laws have existed for a decade. A study conducted by ELA in 2006 found that only 40% of women in the main Argentinean cities were aware of the law on domestic violence in their respective jurisdictions.<sup>10</sup> This indicates that the national, provincial, and local governments have not carried out adequate awareness campaigns about the existence of rights that protect female victims of violence, nor have they allotted sufficient resources to provide adequate legal services that would guarantee access to justice for victims.

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<sup>10</sup> The results of a survey of 1,600 women between the ages of 18 and 69 residing in the three main urban centers of the country (Metropolitan Buenos Aires, Greater Córdoba, and Greater Rosario) were published in "How Women See Themselves: Women's attitudes and perceptions about various aspects of their living conditions" ("*Cómo nos vemos las mujeres. Actitudes y percepciones de las mujeres sobre distintos aspectos de sus condiciones de vida*"). ELA –Equipo Latinoamericano de Justicia y Género, 2007 (available at [www.ela.org.ar](http://www.ela.org.ar)).

The OVD created by the Supreme Court of the Nation for the city of Buenos Aires does not have the power to provide legal advice or free legal representation, as it lacks attorneys to pursue the lawsuits that are initiated. As a result, the OVD must coordinate its efforts with other public and private services operating in the jurisdiction. In particular, the OVD relies on two attorneys from the National Public Defender's Office (*Defensoría General de la Nación*) who provide women with legal advising services (and eventually representation). These efforts, however, are not sufficient to address the 7,300 visits from individuals affected by violence that the OVD received in its first year of operation.<sup>11</sup>

The difficulties related to the lack of free legal representation are exacerbated in the provinces and the country's rural areas where the structural barriers and obstacles to access to justice apply (geographical, economic and cultural barriers).

Law No. 26.485 for Comprehensive Protection Against Violence (*Ley 26.485 de Protección Integral de Violencia*), approved in March of 2009, includes among its objectives the guarantee of "access to justice for women who have suffered violence (article 2), decreeing that

"Government agencies shall guarantee to women, in every judicial and administrative proceeding, in addition to all the rights recognized in the national Constitution, international treaties..., the current law and laws that are consequently enacted, the following rights and guarantees:

- a) free judicial proceedings and legal representation, preferably of a specialized nature..." (Law No. 26.485, article 16).

Therefore, we suggest the incorporation of the following final recommendation:

**The Committee is pleased by the passing of legislation to guarantee access to justice for women victims of violence. The Committee urges the Argentinean government to take the necessary measures with allotment of specific economic resources and coordination to guarantee that this rights is made operative, not only in the regulation of the law by the executive, but also in the effective compliance with the law by all the nation's jurisdictions.**

- (c) **Absence of reliable and systematic data about the scope of violence against women on a national level.**

In the city of Buenos Aires, until the OVD began operations in September of 2008, the judiciary's National Chamber of Civil Appeals (*Cámara Nacional de Apelaciones en lo Civil el órgano del Poder Judicial*) was responsible for gathering information about the number of reports of domestic violence initiated as civil cases.<sup>12</sup> Since 2008, the OVD has been in charge of preparing statistics about the visits it receives, which may later be referred to the civil or criminal courts.

<sup>11</sup> Source: data from the OVD, available at <http://www.csjn.gov.ar/docus/documentos/verdoc.jsp>

<sup>12</sup> Under Argentinean law, "domestic violence" per se is not conceptualized as a criminal offense; rather, preliminary injunctions related to different manifestations of violence are dealt with under civil law. Criminal laws against assault, attempted homicide, and sexual violence are applied as they correspond to the case at hand.

## Number of domestic-violence reports registered in the National Chamber of Civil Appeals (Metropolitan Buenos Aires)

Year	Total number of reports
2002	2720
2003	3258
2004	3416
2005	3772
2006	4386
2007	4677

Source: Author's calculations based on information supplied by the Center of Judicial Information, National Chamber of Civil Appeals.

According to data from the OVD through September 2009<sup>13</sup>, 82% of affected individuals are women, and 50% of cases involve women between the ages of 22 and 39. Girls (0-18 years) make up 15% of affected females, and boys (0-18 years) make up 61% of males affected by conditions of violence.

According to the OVD's data, nearly one in two women affected by conditions of violence did not complete secondary school (47% of cases), and two out of ten did not complete primary school (21% of cases). The majority of affected individuals belong to either the lower class (40%) or lower-middle class (19%). In many cases, female victims of violence also face specific conditions that lead to their increased vulnerability, such as unemployment (25%) or immigrant status (24%).

Out of all the situations reported to the OVD, 90% involve psychological violence and 70% involve physical violence, while only 14% of reports involve episodes of sexual violence.<sup>14</sup> Among the cases reported to the OVD, 31% involve violence on the part of ex-partners, and 26% involve violence by a spouse.

This information is limited to the city of Buenos Aires. In its submissions before the Committee, the Argentine government refers exclusively to statistics produced by the OVD. This is evidence that there is not data produced by the executive branch of government. **There is no information comparable to the OVD's data in other jurisdictions or Argentina, where most of the Argentine population live.**

It is also difficult to obtain reliable information about the number of criminally actionable incidents of violence against women in Argentina (injures, homicides, abuse and sexual assault). The most recent information available from the Department of Justice (*Ministerio de Justicia de la Nación*) is from the year 2007. Even though these data does distinguish between crimes committed against women and against men, no information is provided about the personal relationship between the victim and the perpetrator in these incidents of violence. The same situation is true regarding data on sexual crimes, in which it is not possible to determine to what extent these crimes were committed in the context of current or past personal relationships.

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<sup>13</sup> Source: <http://www.csjn.gov.ar/docus/documentos/verdoc.jsp>

<sup>14</sup> In many cases, multiple forms of violence are reported.

## Crimes against persons. Incidents and victims, total number in Argentina, 2007

Type of crime	Incidents		Victims (*)						
	Total	Rate (per 100,000 inhabitants)	Male	Rate of male victims (per 100,000 inhabitants)	Female	Rate of female victims (per 100,000 inhabitants)	Not indicated	Total	Rate (per 100,000 inhabitants)
Intentional homicide	2.071	5,26	1.779	9.23	315	1.57	5	2,099	5,33
Attempted homicide	779	1,98	607	3.15	159	0.79	41	807	2,05
Assault	137,181	348.56	67.627	350.88	53.580	266.79	2,503	123,711	314.34

(\*) Corresponds to number of reported victims. Not all provinces provide these data.

Source: Author's calculations based on National System of Crime Information. Nationwide Report 2007. National Office of Crime Policy. Department of Justice and Human Rights.

## Sexual crimes. Incidents and victims, total number in Argentina, 2007

Type of crime	Incidents		Victims (*)						
	Total	Rate (per 100,000 inhabitants)	Male	Rate of male victims (per 100,000 inhabt)	Female	Rate of female victims (per 100,000 inhabt)	Not indicated	Total	Rate per 100,000 inhabitants
Crimes against honour	624	1.59	86	0.45	235	1.17	14	335	0.85
Rape	3,276	8.32	317	1.64	2,173	10.82	44	2,534	6.44
Other sexual crimes	7,281	18.50	721	3.74	4,557	22.69	157	5,436	13.81
Total de delitos contra la integridad sexual	11,181	28.41	1,124	5.83	6,965	34.68	215	8,304	21.10

Source: ELA 2009. Author's calculation base don National System of Crime Information. Nationwide report, 2007. National Office of Crime Policy. Department of Justice and Human Rights.<sup>15</sup>

The lack of reliable information from official sources regarding the most serious violence situations against women in the context of partner or ex partner relationships, has led various NGOs to carry out media-monitoring initiatives in order to identify cases where women have died at the hands of the partners or ex-partners. Among these initiatives, the analyses of Amnesty International, *La Casa del Encuentro* and INDESO are worthy of note<sup>16</sup>. All of these initiatives attempt to account for the number of cases of women killed in situations of violence (by partners or ex-partners) that are covered in the nation's media. In all cases, the

<sup>15</sup> Available at <http://www.jus.gov.ar/media/28412/TotalPais2007.pdf>

<sup>16</sup> Amnesty International submitted its report in *Muy tarde, muy poco. Mujeres desprotegidas ante la violencia de género en Argentina* (full report available at [http://www.amnesty.org.ar/sites/default/files/mat\\_y\\_doc\\_muy\\_tarde\\_muy\\_poco.pdf](http://www.amnesty.org.ar/sites/default/files/mat_y_doc_muy_tarde_muy_poco.pdf)). The ONG *La casa del Encuentro*, in *Femicidios en Argentina. 1 de enero al 31 de diciembre de 2009* (full report available at <http://www.lacasadelencontro.com.ar/descargas/femicidios-completo2009.pdf>). The information of INDESO Mujer is on file with the authors.

organizations counted the number of cases of women killed in violence situations (by partners or ex partners) as they appear in national graphic media.

The different methodologies employed in these private analyses sometimes results in incompatibility between analyses. In addition, the imprecision of the primary sources of information (journalistic reports of the incidents without follow-up about the eventual criminal-law consequences established by the courts) **is evidence of the dire need for official judicial and administrative records on a national level.** The reports mentioned resulting from the efforts of civil-society organizations call the attention on the seriousness of the situation, but simply cannot replace the need to have a full diagnosis which should be provided by the government, based on official information produced nationwide. This obligation of the government cannot be replaced by the efforts of the civil society organizations.

Therefore, we suggest the incorporation of the following final recommendation:

**The CEDAW Committee is concerned with the lack of sex segregated information related with violence against women, in its different forms: violence in partner and family relationships, sexual violence and murder. The Committee recommends that effective mechanisms related with the recollection of data segregated by sex be implemented both at administrative and judicial levels, with national scope, prepared in a systematic and consistent manner, comparable among jurisdictions.**

**Further, the Committee is concerned with the lack of updated publicly available information gathered by the Ministry of Justice in connection with crimes against persons.**

#### **(d) The case of the province of Santa Fe**

In 2008, in the province of Santa Fe, the provincial Council of Women was created under the Ministry of Social Development. This Directorate has an approximate budget of \$ 300,000 for the year 2010, of which an average of \$ 250,000 is destined to pay third parties, mainly shelters for women in violence situations. Of all the provincial councils operating under the Ministry of Social Development (indigenous populations, elderly, etc.) the Council of Women has the lowest budget. It also has few human resources (eleven professionals in the city of Santa Fe and seven in the city of Rosario), in particular considering the wide territory of the province of Santa Fe

There is not much coordination between the provincial Council and the CNM, as indicated by the local representative of the Council, Ms. María Rosa Ameduri in a personal interview. According to Ameduri, the local council coordinates its activities with the provinces in the region (Córdoba, Entre Ríos) rather than with the national CNM..

The Council of Women in Santa Fe has two main areas: gender violence and promotion of rights. In the latter, the central line of work consists in training local teams (municipalities and communes) and dictating training and rights awareness courses. In this way, international, national and provincial regulations are disseminated and analyzed.

In the second area of the Council referred to gender violence, there are three main lines of intervention: 1) consults, 2) shelters for women and 3) trainings. These are undertaken through agreements with municipalities and communes. As of May, 2010 19 agreements had been

entered into, mainly in the regions 4 and 5 (Rosario and Venado Tuerto). There is also an agreement executed with the city of Santa Fe and another with Reconquista.

Therefore, we suggest the incorporation of the following final recommendation:

**The Committee is concerned with the lack of information related with actions taken in the provinces of Argentina, including information regarding the economic resources they have and the coordination of their activities with the central government and other provinces in the region.**

## II. HUMAN TRAFFICKING AND PROSTITUTION

### Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

The Criminal Code of Argentina contains various articles under which the crime of trafficking would be covered, such as the prohibition of forced prostitution, deprivation of liberty, and subjection to servitude. Nevertheless, in April of 2008, the National Congress approved Law No. 26.364 for the Prevention and Punishment of Human Trafficking and Assistance to Victims (*Ley 26.364 para la Prevención y Sanción de la Trata de Personas y Asistencia a sus Víctimas*; henceforth, the “Law Against Trafficking”) following various public mobilizations to make visible the plight of workers subjected to conditions of servitude and the existence of sexual-trafficking networks.

Though the Law Against Trafficking is founded on the Palermo Protocols, the separate incorporation of two criminal offenses without a comprehensive revision of the Criminal Code, the law has been sharply criticized on various grounds. The law introduced articles 145 bis and ter into the Criminal Code.

One of the main criticisms of the approved law is aimed at the distinction that it draws between adults and minors under 18, leaving unpunished those cases where adult victims “consented” to their own exploitation—as if it were possible to give consent freely in the context of sexual exploitation. In this respect the law contradicts the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, which specifies that consent is irrelevant. This constitutes another failure by Argentina to comply with CEDAW and other applicable international treaties. Second, the superposition of criminal offenses resulting from the approval of the Law Against Trafficking has been criticized. Third, though the law sets forth rights for victims of human trafficking, it fails to adopt a clear policy to guarantee the full force of those rights. Finally, the law has encountered objections due to the restrictive criterion that victims of trafficking must meet in order to be considered not punishable for the commission of crimes related to their situation; only crimes that are the “direct result” of being victims of trafficking are not punishable.

A comparative report on the situations of Argentina, Chile, and Uruguay, prepared by the International Organization for Migration (IOM) for the period 2000-2006, states: “...on an international level, Argentina is considered a country of destination for women and children

who are victims of trafficking for sexual and labor exploitation. Human trafficking for sexual exploitation encompasses the entirety of Argentinean territory” (IOM, 2006:19).

The scant number of trials initiated against individuals accused of trafficking is telling. The government of Argentina, in its response to the list of questions created by the Human Rights Committee, indicated that in 2009, out of 195 reports, “38 people were prosecuted, of which 9 were put in preventive prison and 13 others will proceed to oral hearings. There were also advances in some cases: we have 38 currently processing”. Up to date, the only judicial sentence on the crime of human trafficking was resolved on November 2009 by the Federal Criminal Court of the Province of Santa Fe.<sup>17</sup>

In the province of Santa Fe there are national governmental units (with a representation in the province, such as the case of INADI Santa Fe, Rescue of Victims of Human Trafficking Office) as well as provincial agencies working on human trafficking. Within the Executive branch of government, this is dealt with by the Secretary of Human Rights, under the Ministry of Justice and Human Rights. This covers two main lines of action: in the first place, a register of missing children and adolescents. According to official data, in 2009 470 complaints regarding missing persons (20 per week) were received. Ten percent of these persons are still missing.

The second line of action is a Program for the prevention, investigation and assistance of victims of human trafficking, which includes a number of initiatives related with assistance protocols, the formation of an interdisciplinary intervention teams on specific cases, the research of official sources, creation of a centralized database, making of an institutional map. Many of these initiatives are in development stage, sometimes incipient.

There is a Special Division on Human Trafficking in the local police department, to intervene in these situations. However, this Division does not have yet an infrastructure and human resources trained to approach the problem.

The role of the People’s Defense Office (*Defensoría del Pueblo*) of Santa Fe is also a relevant actor. Since 2008 it has organized a series of workshops and trainings in different locations in the province. The Support to the Victim Center under the Office has an interdisciplinary team for the treatment and psychological and legal monitoring of the victim and family.

However, due to the lack of official centralized data on cases of human trafficking for sexual exploitation, the data produced by the People’s Defense Office and the Secretary of Human Rights do not match. This divergence could be explained by conceptual differences between both departments, since there is no agreement as to when a forced missing persons is to be considered a victim of trafficking, if there is disputed evidence.

Finally, in April 2010 the local Legislature in Santa Fe has repealed three articles of the Offences Code (Act 10,703), namely: article 93 about "cross-dressing", article 87 regarding "scandalous prostitution" and article 83 about "offenses to honour". These articles qualified the official persecution of sex workers. In 2004, after the murder of Sandra Cabrera, a leader of the Association of Argentines Prostitutes Women (AMMAR) in Rosario City, investigations began into corruption in certain governmental departments.

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<sup>17</sup> Case *Nuñez, Julia Arminda*, infracción art. 145 bis y ter. Inciso 1 Código Penal – en concurso real artículo 55 Código Penal, available at the Observatorio de Sentencias Judiciales, [www.ela.org.ar](http://www.ela.org.ar)

Therefore, we suggest the incorporation of the following final recommendation:

**The Committee is concerned by the lack of information about the status of legislative projects in progress for the modification of the criminal offense of human trafficking. In addition, the Committee urges the Argentinean government to design a comprehensive national policy to effectively coordinate the implementation of programs and actions with national, provincial and local initiatives aimed at preventing, eradicating, and punishing all forms of trafficking and exploitation of prostitution, including an effective administrative and judicial records system for cases.**

### **III. PARTICIPATION OF WOMEN IN PUBLIC AND POLITICAL LIFE**

#### **Article 7**

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government; (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

#### **Article 8**

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

- (a) The mere existence of quotas for the participation of women in legislative positions does not guarantee that gender stereotypes and prejudices about women in power will be overcome.**

With the reform of the National Electoral Code in 1991 (through the approval of Law No. 24.012, known as the Quota Law (*Ley de Cupo*), Argentina became the first country in Latin America to impose, by law, a system of quotas guaranteeing the participation of women in the National Congress. The law and the current regulatory decree require that at least 30% of candidates for the elected positions of representatives, senators, and national constituents must be women.

Before this reform went into effect, women made up only 5.4% of the Chamber of Representatives (*Cámara de Diputados*). According to data up to March 2010, 38.5% of the chamber's members are now women. In the Chamber of the Senate (*Cámara de Senadores*), before the Quota Law, women constituted only 8% of senators. Now women make up 36% of the Senate, somewhat lower than the number of women senators in 2004 which reached 40%.

**Although quota laws have been in effect for almost two decades, the total number of women in the National Congress (averaging 38%) leads one to believe that the 30% floor for women's participation has crystallized into a glass ceiling.**

Among the current leaders in the Chambers of Congress, there is only one woman as Second Vice-President of the Chamber of Representatives, and there are no women among the leaders of the Senate.

Moreover, despite the existence of quotas for women's participation in almost all provincial jurisdictions, **in many provinces the integration of women into sub-national legislatures has been hindered in practice** by the rules about electoral systems, which are defined locally. Finally, **there are no statistics at the national level to gauge the degree of compliance with quotas for women's participation in the Deliberating Councils (*Consejos Deliberantes*), which are the legislative bodies for the smallest territorial units, the municipalities.**

Following the elections of 2007 and 2009, fewer women have joined the provincial legislatures. The increase of 19 female legislators in certain chambers since 2004 is offset by the loss of 32 women in other chambers, resulting in a negative overall change. These data suggest the difficulties that women have experienced in holding public office in sub-national jurisdictions, as well as in the judicial and executive branches (where, in general, there are no laws establishing a quota for female participation).

As an indication of the institutional nature of women's participation in the legislatures, in 2008 the national Chamber of the Senate approved the creation of a Women's Caucus (*Banca de la Mujer*) composed of all female senators regardless of party affiliation. However, despite its wide attributions and unlike all other Senate Commissions (which are permanent bodies with allocated budgets) the Women's Caucus was approved to operate only for one year, had no budget or allocated resources. The term of the Women's Caucus ended in October 2009 and has not been reestablished since that date.<sup>18</sup>

**Another indication of the continuing resistance to women's full participation in the sphere of political representation in Argentina is the situation in Jujuy province.** This province is located in the northeast region of the country, is one of the most underdeveloped in terms of growth in socioeconomic indicators, and is also one of the only provinces that has not approved a quota law guaranteeing the presence of at least a certain number of women in the provincial legislature and municipal legislatures (deliberative councils). For more than 15 years, the Legislature of Jujuy declined to consider a quota law for the province, despite the mandate in the National Constitution that "True equality of opportunity between men and women running for elected and party offices shall be guaranteed by positive actions in the regulation of political parties and in the electoral system" (article 37).

Faced with this situation, a group of women and men filed an *amparo* action (constitutional complaint) before the courts of justice, requesting that they order the public offices of the province to take the necessary measures to legitimize women's right to equal participation in elected offices throughout the province and pass laws to introduce a quota system into the electoral process.<sup>19</sup> In a May 2010 decision, the Court granted the petition and ordered "the Executive and Legislature of the province to comply with the constitutional mandate of the final paragraph of article 37, and the second transitory provision of the National Constitution, by approving and enacting the regulatory law envisaged therein, within the span of three months, under penalty of compelling sanctions".

As a result, a group of legislators in Jujuy province belonging to the political party in power in the province and the nation decided to initiate impeachment proceedings against the judges who signed the ruling.

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<sup>18</sup> The website of the national Senate maintains an informational page about the creation of the Women's Caucus but neglects to mention that the Caucus is no longer active. See:

[http://www.senado.gov.ar/web/comisiones/cominfogral.php?nro\\_comision=257](http://www.senado.gov.ar/web/comisiones/cominfogral.php?nro_comision=257)

<sup>19</sup> The case is *Zigarán, María Inés, Sandoval Patricia y otros c/Estado Provincial s/ acción de amparo. Expediente 206.443/09*.



programs. Progress has not been made in increasing women’s participation in the execution and evaluation of these programs. In addition, the social programs do not include a single institution for access to justice or a specific mechanism for redress in the event of non-fulfillment or an unfair decrease in benefits.

As for the governments of municipalities (the smallest territorial units in the Argentinean government), women are in charge of only 9.8% of municipalities, 80% of which have populations of less than 5,000 inhabitants. In provinces with a significant rural population, as in the province of Santiago del Estero where 60% of the population is rural, the representativeness of Municipal Commissions (as in Santiago del Estero province) or Rural Municipalities (as in Tucumán province) becomes relevant as well.

As from 2008, the province of Santa Fe has started a process of regionalization based on the idea of regions as flexible system where permanent social construction is possible<sup>21</sup>. Regionalization is based on three main principles: decentralization, strategic planning and citizen participation and agreement. In each of the five regions into which the Santa Fe province is divided, certain areas were identified.

As per available information in Sante Fe, it can be observed that women’s participation in public and political life of local governments in each of the main cities of the province is scarce.

#### Local government, by sex, 2010

City	Executive branch of government			
	Head of Municipality		Secretaries	
	Female	Male	Female	Male
<b>Reconquista</b>	---	1	1	8
<b>Rafaela</b>	---	1	2	7
<b>Santa Fe</b>	---	1	1	7
<b>Rosario</b>	---	1	1	9
<b>Venado Tuerto</b>	---	1	---	7
<b>% Total</b>	0 %	100 %	11.63 %	88.37 %

Source: Programa de Género, author’s elaboration

In the local legislative branches of government (called legislative councils)<sup>22</sup>, the number of women councils do not reach 30%, and do not either occupy the leading positions within the legislative councils..

<sup>21</sup> Strategic Plan for the Province of Santa Fe.

<sup>22</sup> Local Legislative Councils are formed by 18 member per the first 200,000 inhabitants, and one additional member per each 30,000 inhabitants or fraction not under of 15,000 inhabitants.

## Local legislative councils, by sex and leading positions, 2010.

City	Local legislative councils											
	Number of members		Leadingn positions in Council *						Head of political parties within council		Head of commissions within Council	
	Female	Male	Female			Male			Female	Male	Female	Male
			P	V1	V2	P	V1	V2				
<b>Reconquista</b>	3	6	---	1	1	1	---	---	1	3	3	3
<b>Rafaela</b>	1	8	---	---	---	1	1	1	---	4	---	5
<b>Santa Fe</b>	4	9	---	---	1	1	1	---	3	4	2	3
<b>Rosario</b>	7	15	---	1	---	1	---	1	3	8	3	7
<b>Venado Tuerto</b>	3	6	1	---	---	---	1	1	1	3	2	4
<b>% Total</b>	29.03 %	70.97 %	20 %	40 %	40 %	80 %	60 %	60 %	26.67 %	73.33 %	31.25 %	68.75 %

\* P: President; V1: First Vice president; V2: Second Vice president

Source: Programa de Género, author's elaboration.

Further, out of the five city governments under consideration, only three of them have a local authority for the advancement of women: Santa Fe, Rosario and Reconquista.

- (c) **For twenty years, women have constituted the majority of law-school graduates, but women have yet to occupy a significant number of high-ranking positions in the judicial branch.**

In the judicial branch, the presence of women is hardly more encouraging, though there have been notable advances following an initiative by the National Executive to increase gender diversity among the members of the Supreme Court of the Nation with the passage of Decree 222/2003.<sup>23</sup>

In the Supreme Courts at the national and provincial levels, women make up 20% of judges; however, a large disparity exists, as women constitute 30% or more of total judges in seven provinces, while in another seven there are no female judges at all. An observation of the composition of the various provincial judicial branches confirms that the presence of women is limited to certain areas or competences (such as family and inheritance, labor, and civil law), while the presence of women in other areas (administrative disputes, criminal law, and economic criminal law) is very scarce.

<sup>23</sup> Decree 222, approved in 2003, established a procedure for the exercise of the President's power, as set forth in the Argentinean National Constitution, to nominate judges to the Supreme Court of the Nation. The decree established a non-binding consulting mechanism with civil society with the express intent of taking into account, to the fullest extent possible, the general composition of the Supreme Court so that the introduction of new members could reflect diversity of gender, specialty, and regional background in accordance with the ideal of representativeness in a federalist nation. Since 2003, during the reform of the Supreme Court of the Nation, two women were nominated out of seven total members.

The absence of a political commitment to gender diversity in the judicial sphere extends to the judiciary's monitoring bodies, such as the Council of the Magistracy (*Consejo de la Magistratura*) and the Impeachment Jury (*Jury de Enjuiciamiento*), which have the power to nominate judges and evaluate their performance, respectively, and which exist in both the national jurisdiction and in the majority of Argentinean provinces.

Through an initiative by the Supreme Court of the Nation, in 2009 a Women's Office (*Oficina de la Mujer*) was created under its auspices which aims to systematize information related to the gender of the various employees in the judicial branch. In March 2010 the Women's Office presented the Gender Map of the Judiciary of Argentina (*Mapa de Género de la Justicia Argentina*). According to the information presented in the report, out of all members of the federal and national judiciary, 55% of positions are occupied by women. However, upon analyzing the distribution by position, the numbers become very different: among appeals judges (*jueces de Cámara*), only 21% of positions are occupied by women, whereas in administrative positions, there is a larger percentage of women, up to 66.32% in the largest administrative category.

The same phenomenon is observed in the gender distribution of other areas of the law. In the National Criminal Economic Court (*Justicia Nacional en lo Penal Económico*), there are 13 male judges and one female judge, and in the National Chamber of Criminal Appeals (*Cámara Nacional de Casación Penal*), only 25 out of 116 judges are women (21%). However, in civil law the composition of the courts is more equitable, and in some cases the number of female judges is equal to or even exceeds the number of male judges.

Also interesting is the analysis of gender composition in the provinces. Although the indicators are similar to that which is occurring on a national level, the provinces of Santiago del Estero, Corrientes, Río Negro, Chubut, San Luis and La Rioja have no female judges in the highest-ranking courts.

**(d) Argentina's foreign relations are conducted almost exclusively by men if one considers embassies and representatives to international bodies.**

The representation of Argentina by women is rare in the international sphere. As of March 2010, according to the website of the Ministry of Foreign Relations, International Commerce, and Religious Affairs, women are at the head of the embassies in Algeria, Nigeria (concurrent with Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Congo, Ivory Coast, Gabon, Gambia, Ghana, Guinea, Guinea Bissau, Equatorial Guinea, Liberia, Mali, Niger, São Tomé and Príncipe, Senegal, Sierra Leone, and Togo), Thailand (concurrent with Cambodia), Cuba, the Dominican Republic, Finland (concurrent with Estonia), Ireland, Malaysia (concurrent with Brunei), Ukraine, and Venezuela.

Moreover, only the following international bodies have female representatives from Argentina: MERCOSUR, ALADI, and FAO. Although the total number of female State representatives has increased with respect to previous years, it is worth noting that of all the vacant embassy positions in the year 2004, only one was filled by a female ambassador (that of Ireland), whereas the rest were filled by male ambassadors.

For these reasons, we suggest that the Committee include the following recommendations:

**The Committee expresses concern regarding the lack of information about the strategies**

that the national and provincial governments are implementing to encourage the integration of women into Executive positions of power, the courts of justice in provincial and local jurisdictions, in the integration of monitoring bodies such as the provincial and national Councils of the Magistracy and Impeachment Juries, and embassies and foreign representations of the country.

#### IV. IMMIGRANTS

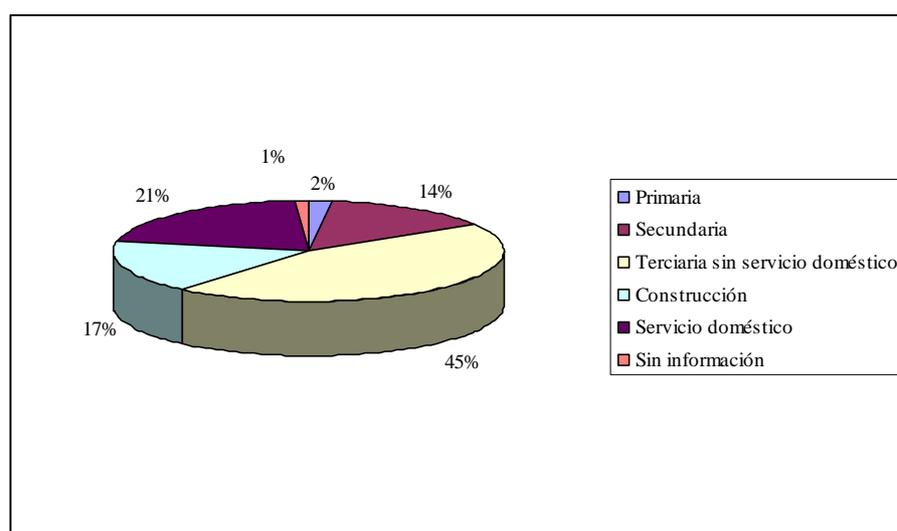
##### Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

The Continuing Survey of Households (*Encuesta Permanente de Hogares, EPH*), one of the few sources available for the analysis of integration into the workforce and income, presents two important limitations for the study of the living conditions of immigrants in Argentina. On one hand, due to sample size, statistics for the group of immigrants from bordering countries and Peru can only be estimated, since it is not possible to distinguish nationalities or to identify with precision the relative disadvantages of certain immigrant groups. On the other hand, information about immigrants' first year after arriving in Argentina is lacking, which complicates the analysis of the process of integration into the country. For example, it is impossible to analyze the opportunities immigrants have to transfer work qualifications obtained in the country of origin to their country of destination. The statistics collected by the National Office of Migration with respect to settling and achieving resident status in Argentina are not disaggregated by sex.

Due to the lack of statistics, the study of the living conditions and the paths of immigrant women depends on investigations of an exploratory nature, based on qualitative methodologies and case studies that allow one to identify certain trends and characteristics.

##### Working border population, 14 years and older, by grouped activity 2002-2003



Note: Division of primary activity: agriculture, livestock, hunting, forestry, fishing and related services, mining and quarrying. Division of secondary activity: manufacturing industry.

Source: ELA, 2009. Based on information from ECMI, Indec.

Because the majority of immigrant jobs are in informal, unprotected sectors, they do not receive deductions for social security or retirement funds.

In the same vein, given that healthcare coverage is closely associated with work contracts in accordance with labor law, immigrants' lack of access to coverage through health insurance and/or a prepaid healthcare plan is another indication of the lack of social protection faced by the immigrant population. It must be noted that in Argentina, access to health insurance and retirement benefits is associated with salaried, registered work, and that this characteristic of the system of social protection is applicable to the native population as well as the immigrant population.

**Working immigrants 14 years and older, by retirement deduction or contribution, 2002-2003.**

Country of Origin	Has retirement deduction or contribution	Does not have deduction or contribution	No information available
Bolivia	19%	79%	2%
Brasil	46%	51%	2%
Chile	39%	59%	1%
Paraguay	26%	73%	1%
Uruguay	46%	52%	1%
<b>Total</b>	30%	69%	1%

Source: ELA, 2009. Based on information from ECMI, Indec.

The following final recommendations is suggested:

**The Committee urges the Argentine government to take measures to improve immigrant women's access to formal employment, guaranteeing health care and social protection for the elderly. In particular, the Committee urges the state that the *Direccion Nacional de Migraciones* should process and make public all the information it gathers segregated by sex.**

**V. WOMEN'S EMPLOYMENT AND OCCUPATIONS**

**Article 11**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to work as an inalienable right of all human beings;
- (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
- (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
- (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
- (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
- (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

(c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

There are numerous areas of concern in regards to female employment. First, women's equal access to education and training, superior performance in school, and accumulation of educational credentials do not translate into equal employment access, equal promotions, or equal pay. On the contrary, conditions of vertical and horizontal segregation in employment, as well as the wage gap, continue to exist, as manifested in the revised outlook regarding the condition of women in the labor market, in terms of the level of economic activity, underutilization of the female labor force, and various forms of gender segregation.

Second, paid domestic service, the primary occupation for low-income women, is governed by discriminatory laws. While it is true that the executive branch has presented a bill before the National Congress that improves the current regulations, it is also true that there are no other policies aimed at the formalization of paid domestic service, which would give workers access to certain rights to healthcare and retirement.

A third area of concern is the absence of public policies related to the balancing of work and family responsibilities in the distinct levels of national, provincial, and local government, with respect to both public employment and employment regulation in the private sector. Among other things, the inadequate offering of childcare services that allow women to remain in the workforce and the absence of public policies that allow for the balancing of work with responsibilities to care for minors and adults. According to Article 179 of the Law on Employment Contracts (*Ley de Contrato de Trabajo*, LCT), employers in the private sector are only obligated to provide nurseries and daycare centers when they employ at least 50 women. The discriminatory nature of this law is even more evident upon examining its location under the title Women's Employment, specifically in the chapter of the law dedicated to the Protection of Motherhood.

Finally, a methodological clarification: the difficulties mentioned at the beginning of this report with respect to public statistics and the INDEC are particularly applicable to the indexes that measure the inequality between men and women in employment. For this reason, a significant part of the analysis of social indicators focuses on the period between 2003-2006, for which trustworthy information is available.

- (a) The situation of women in the job market continues to indicate large disparities between male and female employment rates, with varying impacts in the different regions of the country.**

In the context of the economic revitalization that Argentina underwent—primarily during the period 2003-2006—we observe an increase in female employment and a decrease in female unemployment. However, there remain gaps indicative of gender inequality: according to data

from 2006, women continue to have a higher probability of being unemployed: 15.1% of women were unemployed in contrast to 8.7% of men. In the same vein, underemployment has decreased less for women than for men and, as a consequence, the gender gap has increased: 13.1% of women are underemployed in contrast to 8.2% of men.

**Rate of labor force participation, employment, and underemployment, population 14 years and older, by sex. Total in urban agglomerations, 2003-2006.**

	Rate of labor force participation			Rate of employment		
	Women	Men	Difference	Women	Men	Difference
<b>2003</b>	50	74.5	-24.6	36.8	61.8	-25
<b>2004</b>	49.9	75.5	-25.6	38.5	65.4	-26.8
<b>2005</b>	49.7	75.6	-25.9	40.6	67.7	-27.1
<b>2006</b>	49.8	75.4	-25.6	42.2	68.8	-26.6
	Rate of unemployment			Rate of underemployment		
	Women	Men	Difference	Women	Men	Difference
<b>2003</b>	26.4	17.1	9.2	15.9	12.4	3.6
<b>2004</b>	22.7	13.4	9.3	15.3	11	4.4
<b>2005</b>	18.4	10.5	7.9	13.7	9.6	4.1
<b>2006</b>	15.1	8.7	6.4	13.1	8.2	4.9

Source: OIT, *Challenges for equality in the workforce (Desafíos para la igualdad en el trabajo)*, Buenos Aires: OIT, 2007 (tables based on data from EPH, Indec, according to the source).

To analyze this time period, it is necessary to consider events in Argentina in the 1990s. During this decade, the participation of women in the labor force increased, in part encouraged by the falling levels of employment among heads of household and the resulting decrease in the family income.<sup>24</sup> Considering this phenomenon, it is important to ask if the rates of female labor force participation improved or remained the same with the revitalization of the economy starting in 2003. The available data indicate that, in general, the levels of female labor force participation have stagnated or suffered a slight drop. Therefore, economic recovery and increase in employment do not appear to stimulate the economic participation of women or promote their integration into the job market.

If the increase of the rate of female labor force participation in Argentina during the nineties can be explained in part by a significant entrance into the labor force by lower-income women, we must then examine the behavior of this group during the changes of 2003-2006, which have not had uniform effects for women as a whole. On the contrary, there is a very apparent difference in the impact on women with fewer economic resources, as the data confirm a process of segregation of less educated women. Women who live in the poorest households currently have a lower rate of labor force participation than their higher-income peers: only 1 in every 3 poor women participate in the labor force. In addition, over three-quarters of poor women (76.5%) find themselves in vulnerable work situations: either jobless, assisted by a social program for

<sup>24</sup> In a period of little more than a decade (1990-2002), the rate of the labor force participation among women between the ages of 15 and 65 increased by 7.6%. Department of Labor and Social Security (2005): "Diagnosis of the female employment situation: second quarter of 2005" ("*Diagnóstico sobre la situación laboral de las mujeres: segundo trimestre de 2005*"), Subsecretariat of Technical Planning and Labor Studies, Department of Labor and Social Security of the Nation, Buenos Aires.

income transfer, or with precarious employment status (unregistered salaried workers in the private sector or domestic service workers).

Furthermore, in recent years, the proportion of women employed in precarious and informal work situations has increased, and is notably higher than that existing for women living in households with higher incomes. Among the latter, informal and precarious occupations are present in only 14% of women employed.

**Composition of women 15 years and older according to employment status and sex, by family income level. Total in urban agglomerations, 2003-2006, second half of year.**

	30% poorest		30% richest	
	2003	2006	2003	2006
<b>Not in the labor force</b>	53.6	58.2	42.6	37.3
<b>In the labor force</b>	46.4	41.8	57.4	62.7
<b>Unemployed<sup>25</sup></b>	23.9	13.1	4.4	2.3
Unemployed	13	8.7	4.1	2.2
Beneficiaries of employment plans	10.9	4.4	0.2	0.1
<b>Employed</b>	22.5	28.7	53	60.5
Self-employed, professional or technical	0.5	0.8	5	6.2
Self-employed, unskilled	4.8	5.3	3.1	3.1
Salaried	8.1	9.9	39.4	47.8
Public	2.3	1.8	14.9	17.7
Registered private	1.5	2	18.9	24.9
Unregistered private	4.3	6.2	5.7	5.1
Domestic service	8.2	11.8	4.3	2.7
Unpaid workers	0.9	0.9	1.1	0.7
<b>Total</b>	100	100	100	100

Note: Persons with employment plans with labor compensation are considered to be in the labor force. However, unlike in Indec's categorization, they are included in the unemployed category.

Source: ELA, 2009. Based on the data of the EPH, Indec.

**In employment, as with other areas, there is a large disparity of conditions depending on whether one considers the city of Buenos Aires or the distinct regions of the country.** The way in which women enter the labor force also shows disparities on a regional level. In general, the average regional figures show the most pronounced decrease in labor force participation in the northeast region of Argentina. In turn, women in Greater Buenos Aires (GBA) show higher levels of employment than women in Northeastern Argentina (NEA).

<sup>25</sup> A clarification regarding the categorization used in this section: unlike the official statistical records, in which all recipients of income transfers are considered "employed", we include the beneficiaries of employment plans with labor compensation in the "unemployed" category.

**Composition of women 15 years and older according to employment status and sex, total in urban agglomerations, GBA and NEA, 2003-2006, second half of year**

	GBA		NEA		Total	
	2003	2006	2003	2006	2003	2006
Not in the labor force	38.1	38.7	51.1	53.5	40.7	42
In the labor force	61.9	61.3	48.9	46.5	59.3	58
Unemployed	17	10.2	14.4	5.8	16.1	9.1
Unemployed	12.2	8.5	4.9	2.1	10.6	7
Employment plan	4.8	1.7	9.5	3.7	5.5	2.1
Employed	44.9	51.2	34.5	40.7	43.2	48.9
Self-employed, professional or technical	3.4	3.7	2	2.6	3.1	3.4
Self-employed, unskilled	5.5	5.2	5.7	6	5.6	5.4
Salaried	26.9	31.8	17.1	22.3	25.5	30.2
Public	6.9	7.5	10.7	12.6	8.6	9.5
Registered private	12.5	15.5	3.1	5.6	10.2	13.1
Unregistered private	7.5	8.8	3.3	4.1	6.7	7.6
Domestic service	7.8	9.6	7.7	8.7	7.5	9
Unpaid workers	1.3	0.8	2	1.2	1.5	1
Total	100	100	100	100	100	100

Source: ELA, 2009. Based on the data of the EPH, Indec.

As stated earlier, the level of female employment is closely related to educational level.

**Composition of employed women older than 14 years of age according to selected variables. 2003-2006.**

		2003	2006
<b>Highest level of education</b>	Did not complete secondary school	38	35.8
	Completed secondary school, did not complete postsecondary education	35.2	37.3
	Completed postsecondary education	26.8	26.9
<b>Age group</b>	Under 18 years	1	1.2
	18 to 34 years	38.9	40.7
	35 to 49 years	34.2	32.8
	50 years and older	25.9	25.3
<b>Position in the household</b>	Head of household	25.9	27.8
	Spouse	45.1	42.3
	Daughter	22.2	23.2
	Other	5.3	6
	Live-in domestic servant*	1.4	0.8
<b>Household income situation</b>	Undeclared income	31.5	22.2
	Poor	19.9	12.1
	Not poor	48.6	65.7
<b>Job intensity</b>	Underemployed due to insufficient hours	21.7	15.4
	Full employment	49.2	56.5
	Overemployment	24.6	24.2
	Employed but does not work during the week	3.3	3.8
	No data available	1.2	0
<b>Total</b>		100	100

\*Refers to employees who sleep in their employers' household rather than returning home to sleep.

Source: ELA 2009. Based on the data of the EPH, Indec.

The revitalization of the economy in 2003-2006 has not changed in any verifiable way the job distribution established in previous decades. Horizontal job segregation, that is, the overrepresentation of women in certain occupations, persists even though the rate of female employment has increased. The rate of female participation in public and private employment

sectors has not changed substantially: from 68.7% in 2003 to 71.4% in 2006. At the same time, there continues to be a large concentration of women in social and community services and in public administration. On the other hand, there have not been significant changes or different trends in the younger age groups.

Taking into consideration the rate of women’s representation in various types of economic activity, one observes that in public administration and social and community services (including health and education), the rate of women’s representation is more than 100—the highest concentration of women—whereas in sectors such as industry, business, construction, transportation and economic services, the figure is much lower, indicating a larger percentage of men. The same trend is observed among salaried registered workers in the private sector: women are underrepresented in sectors such as industry (18.4%) and transportation and communications (14.8%) but predominate in sectors related to social services and health (73.1%) and education (73%).<sup>26</sup>

These data demonstrate the persistence of gender stereotypes in the effective opportunities for women to access formal employment. Despite the regional disparities previously noted, the available information appears to indicate that women face increasing difficulties in entering the labor force. The absence of childcare policies that allow workers (both men and women) to coordinate family and work responsibilities surely has a particularly significant effect on women who must take care of family members. We will return to this point later in the report.

**(b) The entrance of women into the labor force through informal and precarious occupations has a direct impact on the social-security system.**

Another problem that women face in the labor market—especially women with few economic resources—is their concentration in sectors of employment that have fewer rights and benefits than other salaried workers.

**Percentage composition of employment according to sector, occupational category, and informality, disaggregated by sex. Greater Buenos Aires, 2005.**

	Men	Women
Public sector	8.8	13.6
Formal private sector	49.3	38.5
Employer	4.1	1.5
Self-employed	8.5	6.5
Wage-earner	36.7	30.5
Informal private sector	42	47.9
Employer	0.5	0.2
Self-employed	12.7	10.8
Wage-earner	27.8	17.9
Without pay	0.5	1.7
Domestic service	0.6	17.3
<b>Total</b>	100	100
Percentage of private sector consisting of informal occupations	46	55.4

Source: ELA 2009. Based on data from EPH, INDEC.

<sup>26</sup> Data taken from ELA (2009), cited.

An examination of the population pyramid of contributors to the retirement and pension system draws attention to the gender inequalities in access to jobs with social security coverage. This situation does not only affects the working conditions of every woman (along with her family members or dependents) but also the opportunity to access retirement benefits and social protection. The large percentage of women employed in the informal economy and in precarious jobs leads to a greater level of exclusion from the social-security system. The following graph shows relative contributions to the retirement and pension system by sex.

**Contributors to the retirement and pension system according to sex and age group, March 2007.**



Source. ELA 2009. Based on information from the Social Security Bulletin, Department of Labor, Employment, and Social Security, 2007.

**(c) Gaps in women’s employment: vertical and horizontal segregation.**

The improvement in the economic situation produced between 2003 and 2006 was not sufficient to modify in a verifiable manner the occupational distribution operated in the previous decades. Women’s segregation in labor, that is, their grouping in certain activities, continues even if women’s participation in the work force has increased. Women’s participation in the total number of public and private employment has not changed substantially: of 68,7% in 2003 it increased to 71,4 in 2006. At the same time, a strong concentration of women persists in social and communal services, and in the public administration.

**Rate of women’s occupation by grouping of activities. Total occupation, urban population, 2003-2006.**

		2003	2006
<b>Total</b>	Total public and private	68.7	71.4
	Construction and transport	2.1	3.2
	Industry	42.9	39.2
	Commerce and restaurants	55.7	62.2
	Economic services	31.9	37.4
	Social and communal services	156.8	148.1
	Public administration	107.8	119.1
<b>Upt to 40 years of age</b>	Total public and private	67.2	69.9
	Construction and transport	2.6	3.7
	Industry	40.1	39.1
	Commerce and restaurants	55.3	62.7
	Economic services	39.4	44.8
	Social and communal services	166.3	144

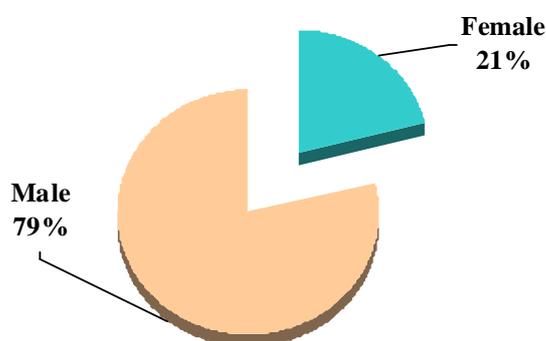
	Public administration	108.4	122.8
<b>41 years old and over</b>	Total public and private	70.6	73.5
	Construction and transport	1.6	2.5
	Industry	46.3	39.4
	Commerce and restaurants	56.2	61.4
	Economic services	23.1	28
	Social and communal services	147.6	153
	Public administration	107.3	116.1

Source: ELA, 2009. Author's elaboration on the base of EPH, Indec.

Vertical occupational segregation evidences another of the mechanisms causing work discrimination for women. This implies that within a certain activity women occupy less leading positions than their male counterparts.

There is a glass ceiling preventing women from reaching high positions, who remain concentrated in the sticky floor, that is, low qualified occupations with low compensations. The results of an investigation made by *Fundación de Investigaciones Económicas Latinoamericanas* (FIEL)<sup>27</sup> are eloquent: 38% of argentine companies declared not to have women in higher positions. In the 60% of cases of companies who declared to have women executives, these only amounted to 20% of the total. In most cases, women's participation in higher positions is concentrated in services and commerce, in companies with smaller commercial volume.

#### Executive positions by sex. Selection of companies, 2004-2005.



Source: FIEL, "El Mapa Económico de las Mujeres Argentinas (1998-2006)", *Documento de Trabajo N° 93*, Buenos Aires, 2007.

The pay gap between men and women also remains unchallenged. On the contrary, inequalities have persisted and in some cases, even increased. In the first place, there are persistent situations of women in low salaried occupations, probably because women are overrepresented in part time jobs, and underrepresented in high salaried occupations. According to a study by the Ministry of Labor and Social Security, even in the same leading position and same time occupation, women's salaries are inferior and are even more important in the private sector.

<sup>27</sup> Realizada sobre una muestra de 2.300 empresas representativas del 40% del PBI de la economía de negocios, en Argentina (FIEL, 2007).

## Pay gap in monthly income and week working time (in %). Total urban areas, 2003-2006.

Calification	Monthly income		Weekly hours worked	
	2003	2006	2003	2006
Professional	65.3	64.1	79.3	81.4
Technical	66.4	72.3	70.2	69.4
Operative	79.6	78.3	80.7	81.6
Non-qualified	73.2	64.6	70.9	68.1
<b>Total</b>	73	70.1	73.6	73.2

Source: ELA, 2009. Author's elaboration on the base of EPH, INDEC.

If women chose to be occupied in jobs demanding less hours of work, or even to interrupt their employment during their lives (in connection with maternity), this may not be a free choice. On the contrary, this is connected with a social mandate that condition individual decisions. The absence of care-giving facilities (for children, the elderly, persons with disabilities) is also an important condition to allowing women to work..<sup>28</sup>

In the province of Santa Fe, in the last bimestrial of 2007 a survey was conducted on the situation of women in the area of Greater Santa Fe, with the purpose of identifying employment opportunities in this urban area.<sup>29</sup> Regarding horizontal segregation, in line with national data, services and commerce are the one employing more women, followed by industry. Further, more women work in administrative positions, and more men work in production jobs and in decision making positions.

### Female participation in employment, by grouping of activities, Santa Fe, 2007.

	TOTAL	INDUSTRY	COMMERCE	SERVICES
61% to 100% women employed as of december 2007	40%	20%	44%	45%

Source, Programa Género, Sociedad y Universidad (UNL). Palabras. Cestas (2007)

The following chart provides information regarding the sex of the person occupying the highest position in the surveyed companies:

### Female participation in highest position, by grouping of activities. Santa Fe, 2007.

	TOTAL	INDUSTRY	COMMERCE	SERVICES
Male	80,2%	88,6%	77,7%	79,5%
Female	17,5%	5,7%	20,4%	20,5%
Ns/Nc	2,3%	5,7%	1,9%	0%
	100,0%	100,0%	100,0%	100,0%

Source: Programa Género, Sociedad y Universidad (UNL). Palabras. Cestas (2007)

<sup>28</sup> Pautassi L. y Rodríguez Enríquez C. (2004): Vulnerabilidad laboral, instituciones sociales y género en Argentina, Taller de discusión sobre informalidad y género en la Argentina, WIEGO-CIEPP, Buenos Aires.

<sup>29</sup>The Survey was conducted by the Programa de Genero and the NGO Palabras, with the financial contribution of CESTAS (Italy). It included local companies in commerce, service and industry.

These data shows vertical work segregation in the province of Santa Fe. It is worth noting that before the question posed, many of the surveyed persons could not answer or doubted in their answer since it was the case of family companies where the highest position was occupied by the owners, a man and a woman. In those cases in which a woman occupied the highest position, she was also the owner.

When analyzing the newspaper advertisements for the most important papers in the city of Santa Fe on November 2007, the single most offered services were sexual services (11,40%), where prostitution is an indicator of impoverishment of the population.

**Newspaper advertisements offering employment, by grouping of activity. Santa Fe, 2007.**

Activity	Activity	Female	Male	Both sexes	Does not specify
Other	28,10 %	5,40	10,15 %	1,80 %	10,15 %
Commerce	24 %	9 %	7,80 %	3,6%	3,6 %
Sexual services	12,5%	11,40 %	1,20 %		
Products sale	10,7%	5,40 %		1,20 %	4,20
Restaurants and transport	5,4 %	0,6 %	4,20 %		0,6 %
Food industry	4,7 %	1,8 %		1,2 %	
Other industries	4,2 %		4,2 %		
Textile industries	3 %	1,8 %			1,2 %
Teaching	2,3%	1,80%		0,60%	
Domestic service workers	2,3%	2,40 %			
Repair services	1,8 %		1,80 %		
Construction	0,5%	0,5 %			
Financial services	0,5%			0,6 %	
Chemical industries	0	0	0	0	0
Health and social services	0	0	0	0	0
Total	100%	43%	32%	5%	20%

In the calculation by sex in each activity the percentage was calculated over the total of positions (100% total)..  
Source: Programa Género, Sociedad y Universidad (UNL). Palabras. Cestas (2007)

Based on the considerations made in the last three sections, the following recommendations are made to the Committee:

**The Committee is concerned for the persistent sex inequality in the actual possibilities of women to access formal employment, and the current and future consequences this has on women and their families, in terms of protection of their health, access to pensions and social protection. The Committee urges the Argentine government to take measures to reduce informal work for women, and to give information on these measures in the next report to the Committee.**

**Also, the Committee requires the Argentine government to inform the concrete measures taken in different jurisdictions of the country to overcome occupational discrimination facing women.**

**(d) Paid domestic service is a marginalized sector which represents one of the primary occupations for women in the most disadvantaged classes.**

A telling example of a sector that receives discriminatory treatment in the regulation of economic activity is paid domestic service. Domestic service is one of the primary occupations of women of lower economic levels and is characterized by the poorest working conditions, salaries, and social protection. In general terms, the sector is composed of women who perform household tasks (such as cleaning, cooking, and running errands) and, often at the same time, care for their employers' young children during afterschool hours.<sup>30</sup>

Between 2003 and 2006, Argentina did not see a marked change in the percentage of women employed in domestic service: domestic services account for 18.7% of employment for women over 14 years of age. As for the private sector, employment in domestic services accounts for 32% of all female wage earners, with significant differences between Greater Buenos Aires (GBA, approximately 30%) and Northeastern Argentina (NEA, approximately 41%).<sup>31</sup>

Women employed in domestic services are more likely to be the heads of household and to belong to older age groups compared to their peers in the private sector. Moreover, their households tend to have more minors and a higher level of poverty. These workers also have a significantly lower level of education than the female wage earners of the private sector: over three-quarters of women in the domestic services sector did not complete middle school. Finally, the proportion of internal and foreign immigrants is higher in the domestic services sector than among other female wage earners.<sup>32</sup>

**Socio-demographic characteristics of women employed in domestic services and in other areas of the private sector, total in urban agglomerations, 2006.**

		Female wage earners in private sector	Domestic service
<b>Highest level of education</b>	Did not complete secondary school	26.1	77.1
	Completed secondary school, did not complete postsecondary education	47.6	21.5
	Completed postsecondary education	26.3	1.4
<b>Age group</b>	Younger than 18 years	1.4	1.4
	18 to 34 years	55.7	34.9
	35 to 49 years	26.9	34.9
	50 years and older	15.9	28.8
<b>Position in the household</b>	Head of household	24.5	30.6
	Spouse	36.1	39
	Daughter	32.7	17.2

<sup>30</sup> Rodriguez Enriquez, C. (2007): "The organization of childcare in Argentina and Uruguay", Women United, and Development of Santiago Chile: CEPAL. Document prepared to be presented in the 10<sup>th</sup> Regional Conference on Women, Quito, Ecuador.

<sup>31</sup> See ELA, 2009: 136.

<sup>32</sup> At the same time, it should be noted that there currently exists in Argentina a program for promoting the legitimation of domestic service employees, as well as a tax reduction that benefits domestic service employers: this consists of a system of fiscal credits through which payers of profit taxes can deduct on their tax declaration the cost of contributions made by employees to the special social security system for domestic service employers. However, even with this system of tax deduction, there have been few significant advances: the percentage of unregistered employees fell from 90% in 2005 to 81.90% in 2006.

	Other	6.8	8.8
	Live-in domestic servant	0	4.4
<b>Presence of children under 6</b>	No	71.1	65.6
	Yes	28.9	34.4
<b>Presence of children under 14</b>	No	54.5	43.8
	Yes	45.5	56.2
<b>Healthcare coverage</b>	None	21.4	62.6
	Coverage without discount	15.9	26.9
	Health insurance discount	62.7	10.6
<b>Situation of household poverty</b>	Undeclared income	22.9	15.1
	Poor	7.5	28.8
	Not poor	69.6	56.1
<b>Place of birth</b>	In the same city	74.1	50.7
	In another city or province	21.1	35.6
	In another country	4.8	13.8
<b>Total</b>		100	100

Source: ELA, 2009. Based on information from EPH, Indec.

Domestic service is treated in a discriminatory manner in terms of its regulation: despite the bill presented by the executive branch before the National Congress in March of 2010, the sector is still regulated by a special statute approved in 1956 outside the scope of the Law on Employment Contracts (*Ley de Contrato de Trabajo*, LCT), which governs all other employee-employer relations in the private sector.

The regulations of Decree No. 326/56—compared to those of the LCT—have three components that are strongly discriminatory against domestic services workers: the requirements needed to enjoy legal protection, the system of prior notification for the termination of a work contract, and the compensation owed to the worker upon termination of the contract. In addition, employees in this sector do not enjoy maternity leave and protection or permission to breastfeed even in cases of registered employment, which are a small minority of domestic-services contracts.

The State points out that the primary objective of the bill presented to the National Congress is to provide the sector of domestic employees with the same working conditions as other workers. While the introduction of the bill is indeed a positive step, the benefits that the law would provide would not be applicable to the vast majority of workers employed informally in domestic services. For this reason, in addition to legal reform, it is necessary to establish active policies for the formalization of domestic employment.

According to data from the Federal Administration of Public Revenue (*Administración Federal de Ingresos Públicos*), following a strong campaign to promote registered labor, the percentage of domestic services workers employed informally has been reduced from 90% in 2005 to 81.9% in 2006.

**Estimate of informality in household domestic services, 2003-2006, according to number of people and percentage of informal labor.**

	2003	2004	2005	2006
a) Employed in domestic services	925	947	1.055	1.164
Under 18 years of age,	122	137	130	146
Under 18 years of age	12	22	16	19
Less than 6 hours per week	110	115	115	127
b) Employed in domestic services,	803	811	925	1.018
c) Contributors to retirement and pension system	60	70	93	185
d) Informal labor (d = b – c)	743	741	832	833
e) Percentage of informal labor (e = d/b)	92.50%	91.40%	90%	81.90%

Source: AFIP, “Estimate of informal labor”, 2007.

Based on the foregoing, the following recommendations are suggested to the Committee:

**The CEDAW Committee is pleased to know of the project submitted before the National Congress to change regulations on domestic workers. However, the Committee is concerned for the effective measures that the government will take in order to reduce informal employment for domestic workers.**

- (e) **Reproductive work: women’s responsibilities within the family and the absence of public policies related to the care of their dependents have a direct impact on the participation of women in the labor force and their economic autonomy.**

There is abundant evidence to conclude that the participation of women in the labor force does not result in an increase or improvement in the distribution between women and men on the main responsibilities related to reproductive work and the care of dependents living in the household (children, ancient persons, persons with special needs). On the contrary, the distribution of such responsibilities remains in a traditional form: women take the role of caregivers in much more cases than men and, consequently, invest more time in such chores.

Due to the absence and general deterioration of public policies on care, the manner of resolution of conflicts between work and family varies significantly among social classes and gender. A “vicious circle” is then produced: those households that can afford the costs of hiring the services of private care have more opportunities to choose different distributions of work and responsibilities in the household among themselves; whereas, lower income households that cannot afford the services of private care leave women with a non-existing participation in the labor force or with a precarious and non-permanent participation.<sup>33</sup>

The first consequence of having women as the main caregivers in the household – an unpaid domestic work- is that the presence of young boys and girls in the family seems to be a condition for the participation of women in the labor force, since very frequently women of low

<sup>33</sup> Rodríguez Enríquez, C. (2005): *Macroeconomía y Economía del cuidado: un abordaje conceptual preliminar*, Mimeo, Centro de Estudios de la Mujer, Santiago de Chile.

income households cannot participate in the force or has a labor history that is precarious or intermittent. Thus, the rate of activity of women with your children is much lower than the rate of those women who do not have young children. Women with no children as dependents have not decreased significantly their participation in the private economies in the period 2003-2006. However, there is a differential behavior of women that have young boys and girls who have seen plummeting their economic activity rate, a tendency that increases with the number of boys and girls in the household.<sup>34</sup>

Source of data such as the *Encuesta de Actividades de Niños, Niñas y Adolescentes* (EANNA) (survey on activities of girls, boys and adolescents) provide similar results: mothers tend to be the main responsible persons of the care of dependents in the household, in urban and countryside environments. Whenever changes are found in this traditional role distribution, the explanation is not found in an increasing presence of fathers but in how the work of care is distributed within the household among other members, such as older siblings – which is often the case in poorer households, where the participation of youngsters of fifteen or older increases. In higher income households, domestic service as well as other family members and neighbors have more participation in the care, excluding the siblings of caregiving responsibilities. Certainly, remunerated domestic services in Argentina is a factor often seen in richer households of the Argentine society.<sup>35</sup>

A research conducted by ELA<sup>36</sup> in the three main urban areas of Argentina, shows the following situations that reflect in general terms the strategies used to combine family and work in the labor force. Whereas the support provided by child care agencies created by certain employers that have great number of women in their workforce is basically inexistent, the most used strategy of the surveyed women seem to be educational institutions such as kindergardens and elementary school closed to the homes, followed by the help of family members and/or other members of the household help, which are the most utilised resources in addition to remunerated domestic services or other forms of caretaking. The same research shows an alarming piece of data: in the Great Buenos Aires Area, 5% of children under fourteen remain alone, without supervision, while their parents are at work.

In sum, in Argentina, State intervention on the care of children is restricted to three actions: those related to the educational system (particularly, kindergarden and elementary school); the program of family allowances; and the recently enacted Universal Allowance for the Children for the Social Protection (*Asignación Universal por Hijo para Protección Social*) (which actually works as a focused program) and the social programs that distribute goods or services related to the care of children (most of them from the perspective of social aid).

Despite the fundamental role that plays education in the socialization of children, the care and impact on children's educational development, in Argentina, such educational levels have been unequally developed in comparison with other levels of education. This is so because of a great urban educational offer comes from the private sector, clearly damaging the most disadvantaged groups of society. As a consequence, the development of the primary educational levels has benefited the most favored urban sectors, who often see more chances of optimal results in the rest of their education.<sup>37</sup>

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<sup>34</sup> ELA (2009: 151-165).

<sup>35</sup> Ibidem.

<sup>36</sup> In a Survey conducted by ELA on 2006, over 1600 cases of women between 18 and 69 years of age. Available in [www.ela.org.ar](http://www.ela.org.ar).

<sup>37</sup> Cf. Tenti Fanfani, Emilio: (1995): *La Escuela Vacía. Deberes del Estado y responsabilidades de la sociedad*, Unicef/Losada, Buenos Aires (págs. 115-156).

Recent investigations show the lack of offer from the State not only in the case of childcare but in the educational system for the youngest boys and girls. Governmental assistance for young children is provided in childcare (0 to 2 years) or kindergarden (3 to 5). Notwithstanding, only the latter is really a part of the educational system, where the childcare is more related to an assistential function of the State, underestimating its educational importance and the role in the organization of the households.<sup>38</sup>

According to the data obtained by ELA, in the case of basic mandatory education, the extension of the obligation to the primary education level has had positive effects in Argentina, where increases in the offer and providers are evident. However, a great weakness to the system is the lack of provision of educational services full time (*doble jornada*) and the presence of the private sector in notoriously greater than the governmental.<sup>39</sup>

There is, though, a deficit in the Argentine educational system to alleviate the tensions between family life and the paid work which is represented by the lack of full time education in the public sector. For the primary or elementary level, the public and the private sectors, the majority of children enrolled are for the part time turns (morning or afternoon), whereas for a full time turn, in the public and private sectors as well, the full time turn represents 2.3% of the public sector and 1.8% in the private sector. For the primary school level, public and private, the offer of full time schooling represents 5.5% of the total.<sup>40</sup>

There are as well important disparities in the rate of assistance in different geographical environments. The most vulnerable population is that with less possibilities to access to educational institutions and care outside the households, which contributes to perpetuate that vicious circle of poverty and its transmission through generations. Children who come from rural areas of inside the country and those belonging to the first 1/5 of incomes are the ones with more obstacles to access to the initial educational level that is not mandatory.<sup>41</sup>

Restrictions at early ages to access the educational system are part of a deficit not only of the acknowledgment of basic rights but also of its daily practice, which has been called into attention in different judicial decisions since the judicial system is the means more used to present claims in education.<sup>42</sup>

The regulatory system in Argentina limits the participation of the State in the care and protection of mothers to the labor law system (mainly during pregnancy, birth and breastfeeding periods). As to the regulation of care in the labor laws that is limited to women part of the workforce part of payrolls, one of its main deficits is the exclusion of a great number of workers that are not employed formally (independent workers) and for whom there is no protection of anykind. Thus, Argentina has only some policies of conciliation for employeeed participating of the formal workforce. Through the *Ley de contrato de Trabajo (LCT)* employers are obligated to open maternal rooms and kindergardens if they have a great number of women in their payrolls (art.

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<sup>38</sup> Rodríguez Enríquez, Corina (2007): “*La organización del cuidado de niños y niñas en Argentina y Uruguay*”, Unidad Mujer y Desarrollo Santiago de Chile: CEPAL.

<sup>39</sup> For instance, in the city of Buenos Aires there are 720 educational facilities where initial education is given. Out of this total, only 32% are public schools. More information in ELA 2009.

<sup>40</sup> Rodríguez Enríquez, Corina (2007), op.cit.

<sup>41</sup> Cf. ELA (2009).

<sup>42</sup> Abramovich, V. and Pautassi, L. (2009) *La revisión judicial de las políticas sociales. Estudio de casos*; Gherardi, N. y Zibecchi, C. (2009): “*El derecho al cuidado: ¿una nueva cuestión social ante los tribunales de justicia de Argentina?*” in Revista de Ciencia Política de la Universidad de Chile Política N° 52, Dossier “Derecho, justicia y política”.

179, Ley 20.744/76), law that has never been regulated for its implementation. Later, through ley N° 11.317 a cup of fifty workers older than 18 years of age was imposed as a threshold to this employer's obligation, which is often escaped by hiring only 49 workers. However, in the facts and except in very few jurisdictions, it has not been implemented.

This conciliation strategy occupies a residual place. On the same token, and exclusively for formal employees, there is a right to maternity leave, extended to 90 days (45 days before and 45 after birth), during which the salary is replaced by a family allowance of the same amount of the salary paid by the social security system. Fathers only have the right to take two days off for the birth of their children, leaving clearly that the responsibility should be on the women exclusively. It also contemplates leaves for breastfeeding during the first year of life. In the LCT there are no express provisions referring to leaves of absence for the care of minors or other dependents in case of illness. The only exception is the option to exercise a voluntary right to a leave for justified cause to care for a dependent child minor of age and with an illness (art. 183, LCT)<sup>43</sup>. This is an example of how the protection and regulation of the work of women in the workforce is related to her private sphere and responsibilities in the household, more about the *continuum* productive-reproductive at the core of the relations that include women and men, or about the elimination of discriminations in the public sphere.<sup>44</sup>

The following final recommendation is suggested to the Committee:

**The Committee is concerned with the lack of information regarding care-living services and infrastructure that may facilitate women's full incorporation to employment. Full care services for underage children, the elderly and persons with disabilities should be available for all persons, and not conditioned to formal salaried employees.**

## **VI. HEALTH, FAMILY PLANNING, AND SEXUAL AND REPRODUCTIVE RIGHTS**

### **Article 12**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
2. Notwithstanding the provisions of paragraph I of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

To examine the extent of healthcare coverage in Argentina, it is important to take into account the fragmentation of health services, starting with the distribution of powers among the federal government, the provinces, and the municipal governments. Moreover, there exist three different types of coverage: the public sector, the numerous social-security funds for health insurance, and prepaid health coverage (for private medical companies). The public healthcare system (depending on the national, provincial, or municipal public administrations) is composed of a network of hospitals and health centers intended to provide universal health coverage to everyone in need. The system of social security consists of the health-insurance plans of

<sup>43</sup> This option is only available to the mother, with the exception of some collective bargaining agreements.

<sup>44</sup> As opposed to the employment relationships covered by the LCT public employment is under the regulation authority of national, provincial or local governments. In that fashion, local governments have provided for special grants of leave for female and male employees for terms longer than those contemplated in the general legislation. For more information, see ELA 2009.

registered workers. Finally, the system of private healthcare consists of private clinics and diagnostic centers. These three systems coexist without higher coordination, under the general direction of the national Ministry of Health.

References to healthcare coverage are really references to payments for coverage, most importantly through the social-security system for health insurance. In this regard, there are significant differences in access to healthcare coverage for men and women as well as in access to health services in urban versus rural areas. In the provinces with the least infrastructural development (as in Santiago del Estero province), difficulties with access to health services are exacerbated by the poor condition of, or total lack of, roads and other infrastructural works; as a result, inhabitants of rural areas often find it easier to go to other provinces rather than the health centers located in the capital city of their own province.

The disparities between men and women are manifested in two ways: on the one hand, inferior coverage, and on the other hand, a greater proportion of salaried female workers who do not receive a deduction for employee health insurance. This is a consequence of differences in access to positions in the formal private sector, since women who manage to enter the workforce usually occupy positions of lesser quality, which are informal, not registered, and therefore lacking in healthcare coverage. Family circumstances are another factor influencing medical coverage: women who live with children under 14 and without a partner have less healthcare coverage.

In this report we would like to draw the Committee's attention to several specific aspects of women's health: sexual and reproductive health, deficiencies in the implementation of the law on Sexual Education, maternal mortality and the number of clandestine abortions performed annually in the country. The lack of sex-education policies and the deficiencies in the provision of sexual and reproductive health services (particularly for adolescents) are revealed by a few specific pieces of information. First, the rates of teenage pregnancy, which are linked to certain socioeconomic classes and regions of the country where female adolescents' lack of integration into the educational system is in need of particular attention. Second, maternal mortality rates, which vary significantly across different regions of the country. And finally, the large number of abortions performed annually in Argentina, which are evidence of the shortcomings of public policies related to sexual and reproductive health.

**(a) Teenage pregnancy and motherhood: the situation is more alarming in the most underdeveloped regions of the country.**

In Argentina the overall fertility rate is in decline. According to estimates by the Department of Health from the year 2007, the average number of children per woman is 2.3. However, the situation varies by region and socioeconomic group; poor women and women living in underdeveloped areas of the country have the highest fertility rates. While the average number of children per woman is 1.4 in Buenos Aires, the figures are 3.2 and 3.0 for the provinces of Misiones and Santiago del Estero, respectively.

In 2006, 58% of overall births were to women who did not complete middle school. In the northeast region, this percentage rises to 73% of births. To demonstrate the level of regional disparity in the distribution of live births according to educational level, it is interesting to compare the data with respect to postsecondary education: in the city of Buenos Aires, 31% of live births are to women who completed postsecondary education, whereas in the province of Misiones, the figure is only 4%.

It is clear that the educational level attained by women is closely related to the total number and distribution of live births. Data for the nation as a whole demonstrate the different distribution of births according to level of education: **the majority of women who did not complete primary school belong to the 18.7% of women who have four or more children**, whereas the majority of women who have completed postsecondary studies have between one and three children. The percentage of women with higher education who have four or more children is minimal (4%).<sup>45</sup> **These trends demonstrate that more education leads to fewer children.**

At the same time, early motherhood is a determining factor in the completion of an educational career. Of all mothers under 20 in the year 2006, 17.7% did not complete primary school, and over half did not complete middle school. Again, the contrasts between different jurisdictions are significant: in the city of Buenos Aires, 7% did not complete primary school, while the figure is 51.8% in Misiones, 22.1% in Santiago del Estero, 29.9% in Chaco, and 5.6% in Tierra del Fuego (the southernmost and least populated province).

Finally, the teenage pregnancy rate in 2006 for the country as a whole indicates that nearly 32 out of every 1000 adolescents became mothers. However, the statistics are notably higher in the poorest regions of the country. While in the city of Buenos Aires 17.6 out of 1000 adolescents became mothers, in Chaco the figure is 44.12, approximately 12 points above the national average.

Although the disparity between regions has become narrower over time, there is still a noticeable variance that must be reduced; to achieve this, **it is imperative to establish nationwide awareness campaigns and access to contraceptives and quality healthcare.** In addition, it is important to create educational and work opportunities to improve the socioeconomic conditions of those living in the most underdeveloped regions of the country.

The following final recommendation is suggested to the Committee:

**The Committee is concerned with the persistent inequality among different regions of Argentina in terms of access to services and awareness campaigns related with sexual and reproductive health. The Committee urges the government to take measures to make educational campaigns, contraceptives and health services available in all the country, along with educational and job opportunities for women of all regions.**

**(b) Sexual education: obstacles for the effective implementation of the National Law on Comprehensive Sexual Education.**

In the year 2002 the National Congress passed Law N° 25.673 of Sexual and Reproductive Health creating, among other things, the National Program of Sexual and Reproductive Health that includes the obligation to provide for sexual health education in all schools through the country. However, this norm had scarce impact in the educational institutions. For that reason, in October 2006 the National Congress passed Law N° 26.150 on Comprehensive Sexual Education (*Ley Educación Sexual Integral*) establishing that all students have a right to receive

<sup>45</sup> See ELA, 2009: 238 onward. Data from Office of Statistics and Health Information, Department of Health of the Nation (*Dirección de Estadísticas e Información de Salud, Ministerio de Salud de la Nación*).

comprehensive sexual education in all educational institutions, both private and public, and whether of national, provincial or local jurisdiction.

An obstacle to the effective application of this law is that it does not provide what dependency (secretary, directorate, department) will be in charge of its implementation. Therefore, there are no provisions indicated where should expenses be allotted.

Likewise, the National Budget has no concrete provision regarding this Program. This could be due to three reasons: (a) that no Budget was allotted to the program since its creation; (b) that the Budget corresponding to the program is allotted to other programs; or (c) that the level of detail existing in the budget does not allow the identification of the budget allotted to the program.

In any of these cases, these constitute insurmountable obstacles to detect budget allocations and expenditures at a national level. As indicated by the Ministry of Economy, the evolution of the national budget for the period 2006-2009 in connection with this program is unknown.

**The lack of budget information is one of the main obstacles when it comes to the design and implementation of public policies in the area of sexual education.** If this information is unknown, it is extremely difficult to evaluate the activities and policies implemented by the National program since its creation in 2006.

Another important obstacle is the autonomy that the provinces and the city of Buenos Aires have in the design and implementation of their own educational policies. Concurrent jurisdictions of local and national authorities in terms of planning, organization, supervision and financing of educational institutions, requires the need to evaluate each individual local situation.

In the process of passing the law, in the search for consensus among different positions, a reference to autonomy was included so that each jurisdiction could make the necessary adjustments according to the local situation. In the provinces in which the influence of the Catholic Church is very relevant, this allows for a distortion of the original ideas regarding prevention and sexual education.

The situations in different regions of the country differ substantially. While some jurisdictions have followed the proposal of the Federal Education Council (*Consejo Federal de Educación*), others have distorted the spirit and main ideas related with sexual education. In yet other jurisdictions, the issues of sexual education have not even been considered.<sup>46</sup>

Finally, in all jurisdictions of the country there is a lack in continued and systematic training of teachers in the specific area of comprehensive sexual education. This represents an important deficit in the application of the law given the mainstream provisions contained in the regulations and the central part to be played by teachers. This is also the case in provincial jurisdictions, where the commitment of the government is fundamental for its effective implementation.

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<sup>46</sup> For instance, the City of Buenos Aires designed its educational contents in 2009, taking the proposals of the Federal Educational Council as a guide. These are respectful of a human rights perspective and gender perspective, equality and non discrimination principles. However, serious difficulties can be seen in the effective implementation of this curricula, since there appears to be little political will.

Therefore, we suggest the Committee the inclusion of the following final recommendation:

**The Committee is concerned that, in spite of the legislative progress, there is no information of significant activities undertaken under the National Program of Comprehensive Sexual Education, the budget allotted and expenses effectively made as from the time of its creation. The Committee urges the Argentine government to inform what concrete measures it will adopt to ensure that the currícula prepared by the Federal Educational Council (*Consejo Federal de Educación*) are effectively implemented in all the country's jurisdictions in observance with the goals and objectives of the law, preventing inequalities in the access to the right to sexual education, and to guarantee the adequate training of all teachers.**

**(c) Maternal mortality continues to be a serious problem, especially in the most underdeveloped regions of the country.**

Maternal mortality rates also show evidence of disparity between jurisdictions: the chances of death during pregnancy and childbirth are greater in poorer areas of the country. The contrast between the maternal mortality rate in the city of Buenos Aires (1.8) and the province with the highest mortality rate (16.5 in Jujuy) is illustrative of this inequity. Seventy percent of maternal mortality occurs in jurisdictions which produce 40% of total births; these provinces have the highest levels of poverty in the country.

**Maternal mortality rate by region. 1980-2006**

<b>REGION</b>	<b>1980</b>	<b>1990</b>	<b>1995</b>	<b>2006</b>
City of Buenos Aires	3.8	4.1	1.0	1.8
Cuyo	7.4	6.7	5.1	4.8
Northeast	11.8	10.9	9.2	10.3
Northwest	13.0	8.8	7.7	6.8
Pampeana	5.0	3.2	2.9	3.8
Patagonia	5.7	3.1	2.5	3.1
Nationwide	7.0	5.2	4.4	4.8
Minimum	1.8	1.8	1.0	1.8
Maximum	17.4	19.5	12.6	16.5

Source: ELA, 2009. Author's calculations based on data from the Office of Statistics and Health Information, Department of Health.

This situation has been officially recognized in documents produced by the Department of Health: "while the city of Buenos Aires has maternal mortality rates comparable to those of the most advanced nations in the world, other provinces have a MMR similar to that of developed nations, and others have MMRs similar to those of Sub-Saharan Africa."<sup>47</sup> In the same report it is pointed out, with data from the year 2004, that "maternal mortality affects young women. Ten percent of maternal deaths occurred in women under 20, while 68% affected women

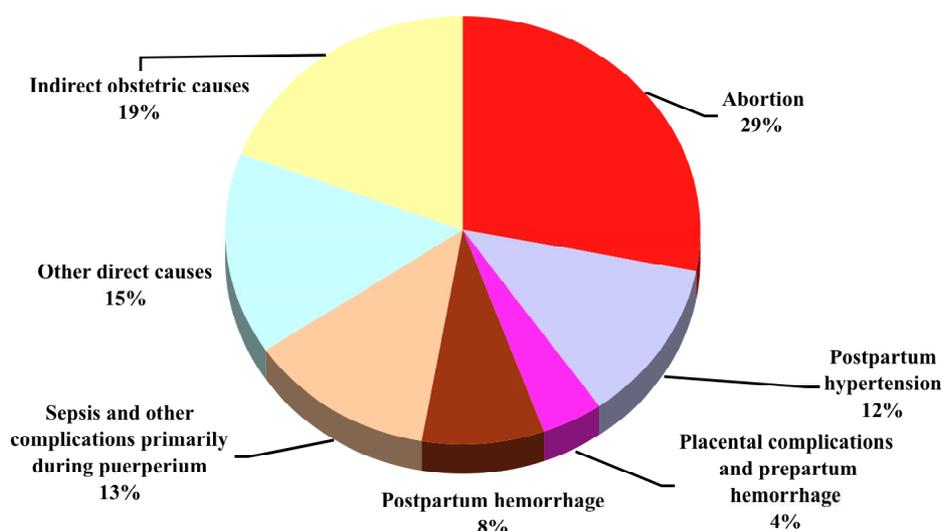
<sup>47</sup> Executive summary: Current state of knowledge and agenda of priorities for decision-making in maternal morbidity in Argentina. Argentinean Forum of Health Investigation, Buenos Aires, 2007, page 8. (*Resumen ejecutivo: Estado de conocimiento y agenda de prioridades para la toma de decisiones en morbilidad materna, en Argentina. Foro de Investigación en Salud de Argentina. Foro de Investigación en Salud de Argentina, Buenos Aires, 2007, pág. 8.*)

between the ages of 25 and 39...Moreover, it is estimated that another 15,000 women suffer morbid effects or complications related to pregnancy, childbirth, and puerperium.”<sup>48</sup>

Reduction of maternal mortality is one of the commitments made by the Argentinean government as a part of the Millennium Development Goals (MDG). Despite a reduction of the inequality between provinces, the pace of improvement in the avoidance of maternal death is insufficient for reaching target levels by 2015.

According to data from the Department of Health for the year 2006, 29% of maternal deaths are due to complications from abortion.

#### **Distribution of maternal deaths by cause. Nationwide, 2006.**



Source: ELA, 2009. Author’s calculations based on data from the Office of Statistics and Health Information, Department of Health.

The data of the Department of Health on maternal mortality demonstrate the existence of serious problems with regard to health coverage and the quality of prevention and treatment services for sexual and reproductive health in Argentina.

According to some experts, from the perspective of public health, the high rate of maternal mortality due to unsafe abortion is an indication of the serious failure of the Argentinean government to fulfill its obligation to make safe abortion services available for legal abortions.<sup>49</sup>

#### **(d) The judicial dispute over sexual and reproductive health practices, and the absence of public policies on healthcare to ensure access to legal abortion.**

One of the main problems with access to health services is in the area of sexual and reproductive health services. As a result, the inadequate implementation of the National Program for Sexual

<sup>48</sup> Ibid., page 9.

<sup>49</sup> Ramos, S., P. Bergallo, M. Romero and J Arias Feijoo. “Access to abortion as permitted by law: an unresolved issue in Argentinean human-rights policy”, CELS, *Report on Human Rights 2009*, Buenos Aires, del Puerto Editors. (“El acceso al aborto permitido por la ley: un tema pendiente de la política de derechos humanos en la Argentina”, CELS, *Informe de Derechos Humanos 2009*, Buenos Aires, del Puerto Editores.)

and Reproductive Health (*Programa Nacional de Salud Sexual y Reproductiva*) in certain jurisdictions is alarming.

The evident efforts by the leadership of the Department of Health (2003-2007) were systematically resisted in certain provinces with disturbing judicial strategies. In recent years, the courts of justice of different jurisdictions have ruled on various topics related to sexual and reproductive health. These precedents are connected to at least five general themes, which have been repeatedly submitted for judges' rulings through initiatives by either healthcare providers or legal professionals (defenders, prosecutors) without sufficient influence from superior-court decisions to change the restrictive criteria of certain judges with respect to the exercise of sexual and reproductive rights.

The issues that are being debated in the judicial courts are: (i) access to various contraceptive options, including emergency contraception, the constitutionality of which has been challenged recently by an appeals court in Córdoba province, although only with respect to the public healthcare system—a decision which will have very direct effects on the poorer classes who lack private healthcare coverage; (ii) access to surgical contraception, which has been approved by special laws in certain local jurisdictions but interpreted restrictively by healthcare professionals and legal practitioners; (iii) the restrictive interpretation of the grounds for non-punishable abortion, in accordance with the provisions of the Criminal Code and the Guide for the Provision of Non-Punishable Abortion (*Guía para la Atención del Aborto No Punible*), which was created by the Department of Health in 2007 but has not been distributed or uniformly applied in the country's public hospitals; (iv) criminal prosecution of illegal abortion, which has produced differing positions with respect to the confidentiality obligations of healthcare professionals; and (v) the scope of conscientious objection, which is permitted by special laws that are applicable to healthcare professionals, educators, and medical institutions.

In many provincial jurisdictions, for example, there are no records for conscientious objectors for healthcare personnel, which allows healthcare professionals in the public sector to maintain a different position from the private sector.

In order to develop any public policy on sexual and reproductive rights, consensus must be reached on the issues which are being submitted repeatedly and with increasing frequency for judicial consideration.

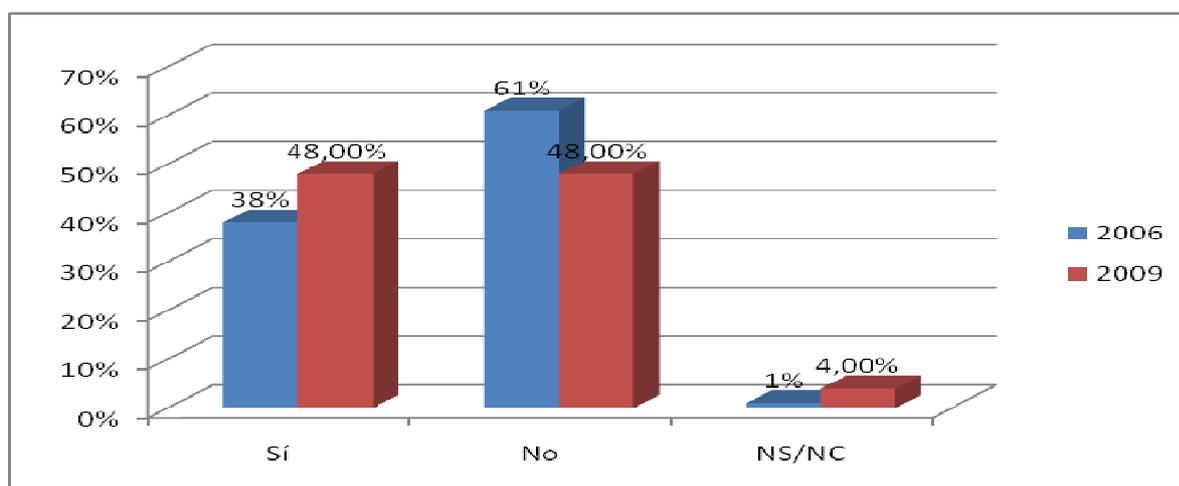
**It is essential to know what measures the Argentinean State will take in order to secure provincial health standards while taking into account the distribution of federal and local powers, as well as what measures will be taken to secure access to non-punishable abortion in jurisdictions throughout the country. Finally, it is important that the government demonstrate the measures that have been adopted to monitor active lawsuits in different jurisdictions relating to sexual and reproductive health (including cases related to non-punishable abortion) and the forms of technical assistance that are being provided to defense attorneys who intervene in these cases to insure greater access to health resources.**

### (e) The case of Santa Fe province

The Monitoring of Public Policies on Sexual Health and Reproductive Health<sup>50</sup> took a survey on women accessibility of sexual and reproductive rights, as contemplated under provincial Act 11,888. From 2006 to 2009 it was concluded that the most important barriers to the exercise of these rights are not economic (health centers regularly have provisions and variety of contraception methods) but rather administrative, cultural and related with conscience objections raised by health professional.

In connection with Emergency Contraception (CE), the Ministry of Health of Santa Fe ensures the provision, but several situations were detected in which some health care professionals claimed that there were no CE, while yet others claimed conscience objection to supply them. The graphic below provides some information about CE from the perspective of users, but ignorance on the very existence of this emergency contraception is still very important.

#### Are you aware of the existence of emergency contraception?

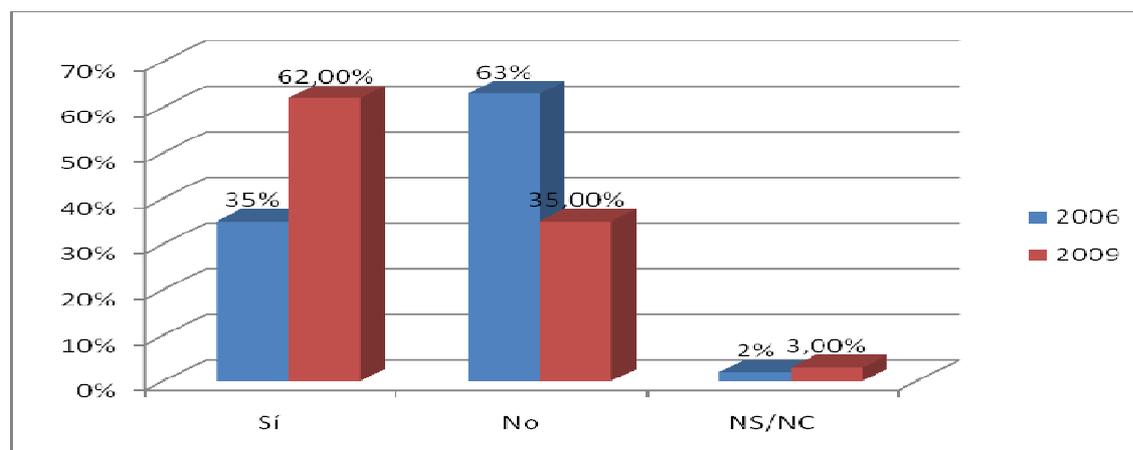


Source: Monitoring of Public Policies on Sexual Health and Reproductive Health, Santa Fe, 2006. Reconquista 2009

According to the information, there appears to be significant access to tubal ligation practices, although in group interviews made during 2009 in suburbs of Santa Fe city, women users expressed concerns regarding professionals objecting to the practice, in particular with young women who have few children. There are also administrative barriers between neighborhood health centers and base hospitals where the practice is done, which makes access more difficult and, in many cases, these administrative processes operate as the main barrier for women to give up the request.

<sup>50</sup> Since 2006, the Programa de Género together with the NGOs Palabras (Santa Fe), INDESO and INSGENAR (Rosario) and Mujeres de la Costa (San Javier) monitor sexual and reproductive policies in the province of Santa Fe, under CONDERS.

## Do you know any woman who has required to get a tubal ligation practice?



Source: Monitoring of Public Policies on Sexual Health and Reproductive Health, Santa Fe, 2006. Reconquista 2009

Conscientious objection continues to be the main obstacle to many practices and services, such as in the case of IUD, tubal ligation and emergency contraception. In September 2008, the organizations in charge of the Monitoring of Public Policies, in audience with the authorities of the local Ministry of Health, proposed the development of a provincial register of conscience objectors to ensure the access to sexual and reproductive rights. On April 28th 2010 the Register was created (Ministry of Health resolution N° 843) and it should start to be implemented throughout the provincial territory.

Regarding legal abortion, there is no specific data about the practices carried out in the province. However, from informal interviews with authorities and effectors, there appears to have been an increase in access to legal abortion by women. In May 2009, Law 12,978 was passed, establishing a protocol for post abortion care, in accession to resolution N° 989/2005 of the national Ministry of Health.

The right to access to information about sexual and reproductive rights is still a pending issue in the province of Santa Fe. Surveyed women (1,100 women in 2006 in Santa Fe, Rosario and San Javier) 160 women in 2009 in Reconquista and interviewed (7 urban slums of Santa Fe city, 2009) state knowing that they have rights to free contraception but it is evident that they are unaware of other rights provided in the current legislation.

For the application of Law 26,150 (Integral Sexual Education) in the educational system, the Ministry of Education of the Province convened two people in August 2008 and extended the interdisciplinary team to 11 members from June 2009 to December 2010. This team designed a compulsory seminar called "Integral Sexual Education" in the 4th year of initial and primary level teaching careers. Training for teachers at all levels was planned. A blog of comprehensive sexual education for the province was also created to ensure the socialization and circulation of knowledge and experience ([www.santafe.gov.ar](http://www.santafe.gov.ar)).

## VII. SOCIAL AND ECONOMIC RIGHTS: THE RIGHT TO HOUSING

### Article 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to family benefits;
- (b) The right to bank loans, mortgages and other forms of financial credit;
- (c) The right to participate in recreational activities, sports and all aspects of cultural life.

The right to adequate housing is recognized in the Constitution of Argentina, in art 14 bis and through a series of human rights treaties incorporated to the constitutional text. Yet Argentina faces a grave housing crisis. Housing deficit, according to the figures from the last national census, reaches 22.640.871 houses. From the total 51, 65% of the deficit exists among those who belong to the lowest income earners.<sup>51</sup> At the same time, according to the Census, there are 1.582.230 homes that lack security of tenure, this means 15,7% of the total.<sup>52</sup>

For women, particularly poor women, the lack of adequate housing has deep ramifications. In Argentina, like many other countries, low-income earners do not have access to adequate housing. Poor people suffer from extremely poor housing and living conditions, including severe pollution, overcrowding, polluted water and inadequate sanitation. Moreover, these houses are often times located outside the cities, in the peripheries, far way from health centers, schools or transport areas. Besides, and despite the fact that in Argentina poverty levels have improved in the past years, poverty continues to affect women more than men. More women than men live in absolute poverty, this is clear in women between the ages of 23 and 60 years. Moreover, female-headed households are very often among the poorest, in fact female-headed households increased since the last census (2001: 27,7% - 2006: 33,1%). Besides, women continue to be the most affected by unemployment and together with children they are the most affected during forced evictions.

All aspects of women's housing rights touch upon the themes of a woman's rights to non-discrimination and equality. The right to adequate housing, and the right to equality between women and men are essential elements of an adequate standard of living. Persistent inequality in the access to adequate housing contributes to the subordination of women making women particularly vulnerable to suffer different forms of violence, exploitation and abuse. At the same time, enjoying the right to adequate housing can have a transforming effect in women, not only because it means access to basic material needs, but mainly because it contributes to transforming unequal power relations between men and women. The Committee recommendation on Canada, serve as an example of how to assure that women enjoy the right to adequate housing.

The Committee notes with interest the State party's indication that federal spending on housing has never been higher, but regrets the absence of a national housing strategy and expresses concern at the current severe housing shortage, in particular in aboriginal communities, and at the high costs of rent and the

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<sup>51</sup> Data from the National Direction of Housing, according to data from 2001 National. Available at: <http://www.vivienda.gov.ar/documentos-y-estadisticas/deficit-habit-provincial-por-quintil.xls>

<sup>52</sup> The possibilities to access rural and urban last has suffered great restraint in the last year. Many reasons can explain this difficulties, among them a) the lack of intervention in the land market b) lack of regularization programs, that produced 1) growth in the amount of informal settlements, and more occupied land by people without access to land and housing, 2) an increases in conflicts regarding land and property and increases in the number of evictions. Cfr. web: <http://www.vivienda.gov.ar/>.

impact thereof on women. The Committee is particularly concerned at the impact of the lack of affordable childcare and affordable housing on low-income women with families.<sup>4</sup>

In this report we aim to highlight the essential link between the right to adequate housing and women's equality. With this end we will focus on the following themes: lack of a gender perspective in national housing policy; women living in informal settlements; the lack of gender perspective in the statistical data related to housing, property and land; and housing as an essential element to live free of domestic violence.

(a) **Women difficulties to access housing: lack of gender perspective in housing policy.**

In the last years, specifically since 2003, the National Government jointly with the local governments have implemented a very significant housing policy, destined to construction go houses in order to fight the severe housing deficit of the country. The most important plan is the Federal Housing Plan I and II.<sup>5</sup> Yet, in its beginning the main objective of the housing programs was to collaborate to strengthen the economic recovery cycle by hiring construction companies to develop major public housing schemes, specifically its end was to promote 360.000 jobs", partially the housing plan was destined to reduce the housing deficit.

Some figures related to the housing plan will help to understand the dimensions of the plan: the plan involves the construction of more than 120.000 houses trough out the country, 30% of the houses are being build in the Metropolitan Area (21 districts). In the last 3 years more houses were build than in the last 30 years. The investment, for the Metropolitan Area alone, represented over 1.200 million pesos.

**However, despite the importance of the housing policy and the level of intervention, the plan lack of gender perspective, there are no provision that take care of women needs and there was no special planning of women's needs. Only a few cases (a few specific experiences in certain jurisdiction) have established a criteria or special quota for women in the adjudication process.** There are is no uniform criteria regarding the titling process. Even tough there are no legal obstacles for women to have property titles, experience indicates that usually women do not own property in the same proportion than men, thus women often time do not have legal security of tenure and are exposed to insecurity. It is recommended that the Government of Argentina ensures that women receive legal titles or at least there is a joint titling rule that applies to all housing programs.

At the same time, the national housing plan was designed and implemented without or scarce participation of the people affected or beneficiaries of the plan. A unique model was designed for the different housing plans and were build in different areas without any participation of the groups that are interested in the plan, in violation of international human rights standards.

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<sup>4</sup> CEDAW (7 November 2008), CEDAW/C/CAN/CO/7.

<sup>5</sup> Among other: PFREACT I Y II: Programa Federal de Reactivación de Obras del FONAVI I y II; PFSH: Programa Federal de Solidaridad Habitacional; PFCV: Programa Federal de Construcción de Viviendas; PFPCV: Programa Federal Plurianual de Construcción de Viviendas; PFMV: Programa Federal Mejor Vivir; PFEH: Programa Federal de Emergencia Habitacional; PROMEBA: Programa Mejoramiento de Barrios; PROPASA: Programa de Provisión de Agua Potable, Ayuda Social y Saneamiento Básico; PROSOFA I y II: Programa de Desarrollo Social en Áreas Fronterizas del NO y NE Argentinos I y II; CARITAS: Programa de Viviendas Cáritas; FONAVI: Fondo Nacional de la Vivienda). According to oficial information, in the period 2003-2007, 470.457 housing solution 232.777 are being executed, the plan is to do another 63000. Information available: web: <http://www.vivienda.gov.ar/>

Women did not have any chance to be heard or to participate in any of the different stages of the national housing plan. Women participation is essential to ensure that the houses, the infrastructure ,the neighbors contemplate women needs. Women lack of consultation and participation is contrary to governmental duties to ensure women participation in all public policies and, specifically, is contrary to General Recommendation Nro 23 of the Cedaw Committee that states:

Article 7 obliges States parties to take all appropriate measures to eliminate discrimination against women in political and public life and to ensure that they enjoy equality with men in political and public life (...)Term covers all aspects of public administration and the formulation and implementation of policy at the international, national, regional and local levels. The concept also includes many aspects of civil society, including public boards and local councils and the activities of organizations such as political parties, trade unions, professional or industry associations, women's organizations, community-based organizations and other organizations concerned with public and political life..<sup>6</sup>

Concluding Observations of the CEDAW Committee to Argentina, in the year 2004, included:

The Committee recommends that the State party emphasize a women's- empowerment approach and incorporate gender perspectives in all its social and economic policies, programmes and projects so as to ensure that they support the goal of gender equality and women's enjoyment of their human rights. It invites the State party to periodically assess such measures and their impact on women so as to ensure that they do not perpetuate discrimination against women....<sup>7</sup>

Following the Committee's observation, it is absolutely essential to have women's voices heard in matters related to housing, women continue to carry the burden due to gender role division and women are still in charge of taking care of the children, domestic chores and often times women develop productive work at their homes. For all this reasons, it is important to consider that housing conditions are essential to women lives.

Finally, it is important to mention that the CNM has no special programs, polices or actions dedicated specifically to women's housing issues neither is dedicated to promote the need to develop gender perspective in the housing area. To conclude, in Argentina there are no specific polices, that taking into consideration existing inequalities between men and women, promote positive action to develop a gender lens to the housing policies in order assess women's substantive equal enjoyment of their economic, social and cultural rights.

Taking into consideration this reality, the following concluding observation is recommended

**The Committee recognizes the special impact that housing conditions have in women's lives and express its concerns due to the lack of affordable housing for women, specially women with children and low income earners. The Committee urges the State party to incorporate gender perspective in national housing programs and in general housing issues and urges that it adopts a provision to ensure that women's' needs and voices are taken into consideration in governmental programs, polices and actions.**

**It also call to the State party to emphasize and incorporate gender perspective in all its social and economic policies, programs and projects so as to ensure that they support the goal of gender equality, in particularly housing policies. Specially it**

<sup>6</sup> CEDAW Recomendación General No. 23 " Political and public life", 1997.

<sup>7</sup> CEDAW Concluding Observation on Argentina, 31<sup>o</sup> session period, UN Doc. CEDAW/C/ARG/CO/5 (2004).

**recommends to the State party to ensure that all national and local programs destined to promote women's rights, in particular the National Women Council, take into consideration housing and other issues related to women's economic and social rights. Ensuring women's participation in decision-making processes and taking into consideration the needs of vulnerable women, such as low income earner or female headed house**

**(b) Women's situation regarding access to loans or credit facilities to access adequate housing.**

In the last years, an accelerated real estate speculation has affected Argentina, due to the increase in international tourism, foreign investments and an increase in real estate investments from local developers. This phenomena has produced an increase in real estate values, housing prices have suffered an increase of more than 30% per year, in the last 5 years. The increase in real estate values has operated in us dollars while salaries increase, obviously, in Argentinean pesos, producing an enormous gap between salaries and housing prices.<sup>8</sup> This increase and existing gap have a special negative impact on women because women are usually among the lowest income earners. Besides, salaries in the informal sector have not suffer an increase comparable to the one of the salaries in the formal sector, affecting specially women since women are over represented in the informal sector of the economy. To this it is important to add the existing difficulties to access loans and credit services that are necessary to be able to have access to adequate housing.

Among the main factors that affect women access to housing, in violation of the equality principle of CEDAW, it is possible to mention the following ones: in the first place, women's difficulties to access the labor market and the over representation of women in the informal sector of the economy, affecting women opportunities to access credit services.<sup>53</sup> In Argentina, women from poor or low income homes have more difficulties accessing the labor market than women from higher income households: 1 every 3 poor women are economically active. Besides, more than three quarters (76.5%) have poor labor conditions: no employment, receive social benefits or have an informal job (informal workers and domestic employees)

Moreover, in the last years, the percentage of women working in the informal market has grown, and is much higher than the percentage of women of higher income households working in the informal sector, among them only 14% are informal workers. In Argentina, only 10% of the population have access to credit services and loans, this means that only people with a salary higher than 6.200 pesos are eligible for loans. In the case of the City of Buenos Aires, this figure goes up to 9.801 pesos, this means that only the richest 10% of the population can access credit services, specially if we take into consideration that the minimum wage is equivalent to \$1.500.

On top of all these obstacles, women encounter other difficulties, for women it is much harder to comply with the rest of the requirements asked in order to be eligible for a loan, such as collateral, proof of salary (impossible for informal workers), a number of years in the same job,

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<sup>8</sup> The difficulties to buy or rent or access housing forces middle and low income earners to occupy vacant houses, from private or public owners. In the city of Buenos Aires, for example, there are between 170.000 and 200.000 viviendas informally occupied, according to official data, combined with the increases in real estate value, an important increase of eviction cases.

financial history, among others. While these requirements are asked for both men and women, they have a differentiated and negative effects on women, especially those that are only providers, in particular due to the labor market reality.<sup>9</sup>

Therefore, it is recommended that the Committee adopt the following final conclusion:

**The Committee is concerned about the poor women working conditions, specially in those that are working in the informal sector of the economy, due to its pervasive consequence in women's opportunities to access loans and credits services, this affects women enjoyment of adequate housing. The Committee urges to the State Party to make all necessary efforts to guarantee women's equality in the labor market to ensure the rights granted in this Convention. The Committee is concerned that in the prevailing situation of economic difficulty and uncertainty, women working in the informal sector suffer from greater obstacles to access to loans, credit services and other benefits that are essential for women's enjoyment of the right to adequate housing and the rest of economic and social rights.**

**(c) Lack of data and statistics disaggregated by sex in housing and property.**

The lack of data and statistics that reveal the status of women regarding access and enjoyment of property, land and housing prevents, on the one hand, to make an accurate diagnosis of the situation of women in Argentina. This lack of true diagnosis difficult the design of a positive public policy that facilitate access to housing for women, contrary the constitutional mandate of Argentina (art. 75 inc. 23 of the National Constitution), as well as difficult the implementation of housing policies from a gender perspective. This fact reflects both the lack of reflection on the theme and the disinterest of the Government to include this crucial issue for women into the public agenda. Although there is no local statistics, the available data on the region indicate that women are proprietary of 10% of the land while men are 90%.<sup>12</sup>

Therefore, it is recommended that the Committee adopt the following final conclusion:

**The Committee recommends a wider and more extensive collection of data disaggregated by sex and urges the State party to include relevant statistics that show the evolution of housing programs (social policy) and its impact on the female population of the country.**

**(d) Housing as an essential element so that women live a life free from domestic violence**

Access to housing –at least an adequate place to live - is an essential element for women victims of abuse to fight domestic violence. The previous Special Rapporteur on Housing, Miloon Kothari, described the close link between the right to housing and violence against women as follows:

<sup>9</sup> According to the last Census, 27% of the household are female headed house holds.

<sup>12</sup> Bernardo Kliksberg, UNDP Principal Consultor, at: "No a la discriminación" (La Nación, [http://www.lanacion.com.ar/nota.asp?nota\\_id=892859](http://www.lanacion.com.ar/nota.asp?nota_id=892859))

“... it is necessary to pay special attention to some groups or categories of women that are more vulnerable than others, which are at more risk of losing their homes or to suffer the consequences of inadequate housing and living conditions.... In most countries, developed or developing, domestic violence is a fundamental cause of some women being deprived of shelter and is a real threat to the physical safety of women and the legal certainty. Many women accept to remain in violent situations because they face a life without a home if they choose to oppose to domestic violence.”<sup>13</sup>

A recent study by COHRE (in which women victims of domestic violence in Argentina were consulted about the main obstacles to leave violent relationships) shows that many women do not have a place to live more than the home they share with the offender. Indeed, in most cases, women who identified the economic dependency as an obstacle to leave a situation of violence, also mentioned the problem of housing and lack of alternative home as a major problem that prevented them from leaving the circle of violence.

As noted, Argentina adopted a new Law on Violence Against Women (Act 26.485) which specifically provides in its article 3 that the State guarantees all the rights recognized by the CEDAW and the Inter-American Convention to Prevent, Sanction and Eradicate Violence Against Women (Belem Do Pará Convention). Regarding to the problem of housing for women victims of violence, the Argentine State informs the Committee that "in all the country there is a proven need for the construction of shelters for women. The CNM has conducted a survey in the national territory of public and private resources, shelters and other forms of shelter for women victims of violence... there are 12 provincial shelters (including the city of Buenos Aires) and 12 at the municipal level to cover the specific demands of each jurisdiction.<sup>14</sup> However, refuges and shelters are temporary and emergency solutions intended to remedy a situation of urgency that suffer abused women. Indeed, the assistance programs which include the ones that regulate the refuges, hostels or half-way houses set strict conditions of admissibility and allowed permanence, thus reinforcing that they are a temporary measure. At the same time, there are only few programs, although what is established by the law, that allows women to recover or to access to financial autonomy affecting their ability of housing. Ultimately, it is fundamental that the rules contemplate the creation of programs that allow access to permanent housing for women who have lost their place of residence as a result of ending an abusive relationship.<sup>15</sup>

Regarding the housing problem, article 10 of the Act 26485 establishes that the Federal Government shall promote and facilitate the creation of support services to victims and shall ensure “instances of transit for the care and shelter for women victims of violence in cases where staying in their houses or residences could be an imminent threat to their physical, psychological or sexual integrity, or that of their family members”. In addition, sets the creation of economic assistance programs to reinforce the autonomy of women. It also established that the “Ministry of Social Development will held agreements with banks in order to provide lines of credit to women victims of violence” (art. 11. subsection 2. e). The effective implementation of this program is essential for women who must leave their homes and have no access to housing in the formal market. Regulation of these rules and conventions should consider simplification and reduction of requirements for access to credit adjusted to the reality - especially economic- of women of the country. At the same time, it is desirable that women victims of domestic violence should have some level of priority in the allocation of grants and housing plans financed by the State.

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<sup>13</sup> Miloon Kothari (26/03/2003), ‘Women and adequate housing,’ UN Doc. E/CN.4/2003/55.

<sup>14</sup> Argentina’s Government (08/09/2008) ‘Evaluation of the States parties reports regarding the 18 art. of the CEDAW: Sixths periodical reports of the States Parties’. UN Doc. CEDAW/C/ARG/6.

<sup>15</sup> It is also useful to mention the report of 2006 by Miloon Kothari, ‘Women and adequate housing’, UN Doc. E/CN.4/2006/118.

Therefore, it is recommended that the Committee adopt the following final conclusion:

**The Committee reaffirmed that the lack of adequate housing often avoids women to get out of the vicious circle of domestic violence. The Committee urges the State party to provide to victims of domestic violence, who are mainly women, access to a permanent safe accommodation and make every effort in order to regulate and implement the legislation. Specially, urges the State party to take into account and to design effective programs to ensure legal and economic resources to women victims of domestic violence, so that: 1) will enable women victims of domestic violence live safely in their homes after incidents of domestic violence, regardless of who is the holder of the residence building; (2) ensuring a place to live in case victims have to leave their home and also provide support and assistance which allows women to avail themselves of financial resources that enable them to rebuild their lives. The State party should make every effort to ensure that women do not have to decide between left homeless or remain in violent relationship.**

## VIII. RURAL WOMEN

### Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.
2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
  - (a) To participate in the elaboration and implementation of development planning at all levels;
  - (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
  - (c) To benefit directly from social security programmes;
  - (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
  - (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;
  - (f) To participate in all community activities;
  - (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
  - (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

In Argentina, as in other areas, there is no reliable information about the situation of the indigenous people. There is no sex desegregated data available related to the situation of indigenous women. This lack of information is yet another proof of the marginal place that the reality indigenous communities occupy in the public agenda. The main source of information is the Complementary Survey on Indigenous Communities 2004-2005, Encuesta Complementaria de Pueblos Indígenas 2004-2005 (from now on ECPI). The ECPI used as a framework the information from the National Census of Population, Homes and Housing of 2001, that included- for the first time- a question that allowed to identify those homes where at least one

person identifies her or himself as indigenous (self identification criteria) or as descending from indigenous (descendent criteria).

The ECPI presents an important deficit regarding the way in which the information is processed. In the first place, the ECPI only applies to those persons that were identified in the National Census as indigenous. In second term, indigenous groups did not participate of the Census proceedings. Lastly, the Census took place while the country was going through great socio political difficulties, this had serious repercussions in the training of those in charge of the proceedings.

The ECPI estimates that from the total of the population 600.329 people are indigenous, this means less than 2% of the population. In 2.8% of the homes there is at least one indigenous person. Jujuy (10.5%), Chubut (9.7%), Neuquén (8.6%), Río Negro (7.9%) and Salta (6.4%) (MTEySS, 2007) are the provinces with the largest indigenous population. 23% of the people (around 142.000 people) did not recognize being indigenous, even though they are descendent in the first degree from indigenous people. Thus it is important to consider the role of the government in order to encourage the identification of indigenous people. In the last year, some initiatives were put in place in order to grant the rights awarded to indigenous communities in the national legislation. However, there are no special policies designed to repair the historic discrimination and exclusion that the indigenous communities suffered. This is a key element to understand the existing figures.

**(a) Indigenous women have an extra work, taking into consideration the demands from the reproductive role and productive unpaid work**

The demographic structure of the population that descend from indigenous population present patterns that are distinctive from the rest of the population. In the indigenous communities there are more children but at the same time there are more men than women. This data is significant, if we take into consideration that women life expectancy generally is longer, yet this is not the case for indigenous women. Unfortunately, it is not possible to evaluate if the difference between men and women is greater in certain age groups, this information is not available, that will permit to say if women are dying younger than men.

If we consider the information from the ECPI and the EHP it is possible to conclude that regarding labor conditions, indigenous women are worse off than men. Even though it is true, that both indigenous men and women, have mainly access to informal jobs, without access to social security, women are disproportional represented. At the same time, even if there is no available information about it, several information show that indigenous women face a big work load, not only because their reproductive role in the communities, but also because they are in charge of an important load of domestic unpaid work. The amount of reproductive work and productive work is conditioned both by the economic status and the place of residence. The more poor the women are the more hours they work and the more informal their jobs are. Besides, because of the nature of the work of women of rural areas, there is no clear line between the reproductive and productive roles.

A proper analysis of the problem of domestic unpaid work should not only look at the amount of hours that women dedicate to these tasks but also the difficulties and circumstances in which this are performed. Rural areas suffer from deeper levels of poverty and there lack of essential services ( lack of electricity, water and sanitation services, among others) is greater. Women are most affected by these circumstances: women have to dedicate more hours and more efforts, physical and psychological, in order to be able to comply with the domestic chores. The

possibilities for rural women to access the labor market is clearly related with the possibilities of developing productive business or renting land. Thus, women’s poverty can not only be explained due to discrimination accessing the labor market, lower salaries or existing restriction due to their reproductive role but mainly because women have less access to economic and financial resources.

**(b) Education**

The figures related to access to education of indigenous people evidence the existing inequalities. Yet it is important to take into consideration that indigenous community are different from each other and thus have specific needs that should be taken into consideration by the Government when designing policies. It is important that the diversity of each culture is recognized in order to be respectful of existing multiculturalism. A more just and inclusive society demands for the implementation of social policies that are able to guarantee access and continuity in all education levels but at the same time take into consideration existing inequalities between rural men and women in their educational trajectories.

When analyzing the existing equalities in educational trajectories, it is important to take into consideration the following: 95% percent of the population between the age of 5 and 14 years old have access to formal education. However, the possibilities to continue to in the education varies significantly depending the community involved. For example, Toba women rich higher level of education than Toba men however there is a high percentage of women that did not receive formal education at all.

**Mapuche, kolla y toba population over15 years old, according to sex, according to maximum level of education Total of the country de, 2004-2005.**

	Mapuche		Kolla		Toba	
	Men	Women	Men	Women	Men	Women
Never	5.0	6.8	10	10	11.0	15.0
Elementary Incomplete	16.6	15.6	9.7	20.3	35.6	25.3
Elementary completed complete	33.7	27.9	26.6	30.2	24.8	28.3
High School Incomplete	27.1	27.2	28.3	17.6	19.7	21.3
High School Completed or more	22.6	29.3	35.4	31.9	19.9	25.0
	100	100	100	100	100	100

Source: ELA 2009. Author’s elaboration based on ECPI 2004-2005, INDEC.

In order to analyses existing inequalities in education it is not enough to look at the figures it is important to see if educational programs are respectful of the history and cultural identity of the indigenous communities. It is important the Government design policies that guarantees equal access to quality education for men and women.

For example, the ECPI shows that only 10% of the girls and boys in primary school takes classes in their own language. 15.6% of boys and girls between 5 and 14 years old stated that they use the tribal language at home. Among the general population, from 5 year old onwards , 27% stated that they speak or comprehend tribal language ( Graphic 1) but only 14% declares that they speak it at home.

### (c) Health

In Argentina indigenous persons have a shorter life expectancy than the rest of the population, resulting from existing overlapping circumstances: lack of infrastructure, poor water and sanitation services and lack of health services. Indigenous women suffer greatly the consequences of lack of reproductive control methods that has a great impact on maternal death rate and infant death rates. Among indigenous women maternity rates are higher than those of the general population. An important percentage of the women have more than 4 children, specially among kolla and toba population.

#### **Women, older than 12 years old, mapuche, kolla y toba communities, according to numbers of children born alive and maximum education level. Region 1, 2004-2005.**

	<b>Mapuche</b>	<b>Kolla</b>	<b>Toba</b>
No children	38.3	32.5	34.1
At least one	61.7	67.5	65.9
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>
1	18.1	16.6	16.5
2 or 3	42.5	33.9	34.3
4 or more	39.4	49.5	49.2

Source: ELA 2009. Author's elaboration based on Census 2001 and ECPI 2004-2005, INDEC.

The unequal access to reproductive health services and the number of children that indigenous women have, have a direct impact in the possibilities of this women of accessing formal education in equal terms than the rest of the population. The following figures show the low level of education of women that have children: el 47.4% are kollas and 75% of women with children from the toba community are not educated o have not finished elementary school.

#### **Women over 12 years old from mapuche, kolla y toba communities with children born alive according to maximum level of education. Region 1, 2004-2005.**

	<b>Mapuche</b>	<b>Kolla</b>	<b>Toba</b>
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>
No education or unfinished elementary school	40.2	47.4	75.1
Elementary school completed or incomplete high school	43.5	36.1	22.1
High Scholl Completed or Collage	12.7	11.0	2.3
Collage or University completed	3.6	5.5	0.4

Source: ELA 2009. Author's elaboration based on Census 2001 and ECPI 2004-2005, INDEC.

Young maternal level, low education level and a many children are issues that appear in all three communities, yet in different levels. The fact that indigenous women have more children than non indigenous women, that they have children while they are sill adolescents- an important percentage of women are mother before they are 19 years old- (particularly in the case of toba woman) and the fact that they are excluded from health services explain the high levels of maternal and infant mortality rates.

**Women over 12 years old from mapuche, kolla y toba communities with children born alive according to age they have their first child. Region 1, 2004-2005.**

	Mapuche	Kolla	Toba
11-14	2.9	1.8	8.6
15-19	46.1	49.1	60.5
Subtotal	48.9	50.8	69.2
20-24	32.8	36.6	20.5
25-29	13.0	8.2	7.4
30 o más	5.3	4.3	2.9

Source: ELA 2009. Author's elaboration based on Census 2001 and ECPI 2004-2005, INDEC.

Another important issue that impacts the level of maternal mortality rates is access to health care system during delivery or delivery care systems. There is a significant percentage of kolla and toba mothers that have their children at home. In the case of the kolla community, mothers do not have any assistances from doctors or mid wives at the moment they deliver the babies.

**Women, older than 12 years old, from mapuche, kolla an toba communities with children alive according to age groups and place where the last delivery occurred. Región muestral 1, 2004-2005.**

	Mapuche	Kolla	Toba
Public Hospital or Health Center	70.1	62.2	79.8
Hospital or Private Clinic	22.7	8.6	3.5
Home with doctor or mid wife	2.7	4.6	6.1
Home without doctor or mid wife	2.8	23.7	9.5
Otro (1)	1.7	0.9	1.1

(1) including small health service providers ( "puesto sanitario o salita").

Source: ELA 2009. Author's elaboration based on Census 2001 and ECPI 2004-2005, INDEC.

In Argentina there are not only important differences among women due to economic status or the region where they live, there are also important differences according to the ethnic origin. Maternal morality affects mainly poor, uneducated women from rural areas living in extreme poverty.

Regarding family planning, indigenous women face enormous difficulties when trying to access birth control methods and family planning information, specially due to lack of adequate information for women that lack formal education and speak different languages.

The Argentina Government should design policies in that guarantee access to birth control methods and information about family planning for all women, especially for women that live outside cities, that take into consideration cultural differences and cultural diversity, in order for indigenous women to be able to take care of their health, have control of their own body and have the opportunity to plan their lives accordingly.