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FUNDACIÓN PARA EL DESARROLLO  
DE POLÍTICAS SUSTENTABLES



ALTERNATIVE REPORT TO THE  
COMMITTEE ON ECONOMIC, SOCIAL, AND CULTURAL RIGHTS  
SESSION 47 / ARGENTINA EVALUATION

EXECUTIVE SUMMARY

1. The effectiveness of periodic reviews for compliance under the International Covenant on Economic, Social and Cultural Rights depends to a large extent on the information that the Committee has regarding the country under review. In the case of Argentina, the undersigned organizations maintain that there are serious shortcomings in the information provided by the Argentine government. In particular, access to information through the National Institute of Statistics and Censuses (INDEC) has become increasingly difficult, and official statistics have lost their credibility. It is therefore necessary that the state take measures to recuperate the legitimacy of this institution.

The Argentine state also commits a serious omission when it fails to produce adequate disaggregated data that is both gender sensitive and cognizant of various other conditions of

substantive inequalities. The state lacks the essential elements to plan effective public policies that can address and reverse existing inequalities. The lack of a gender perspective in public policy in general, and in social policy in particular, impedes women's access to and exercise of economic, social and cultural rights (ESCR), and exacerbates women's inequality vis-à-vis men. The state should actively seek to reverse the gaps between men and women in the exercise of ESCR. To do so, the state must analyze current conditions and their causes, and from there, implement best practices.

2. Regarding the situation of indigenous peoples in Argentina, there are currently no procedures for determining the borders and titles of indigenous lands. As a result, very few indigenous communities possess titles to the territories that belong to them. There is also little certainty about the legal actions that may be used to secure lands. As is often the case, indigenous peoples are evicted from their lands with judicial sanction. Excessive use of force and violence by security forces are not uncommon practices. Indigenous communities are not consulted regarding development plans and projects which impact severely on their way of life, in a context marked by the exponential growth of an extractive model of natural resources. The federal government has failed to create uniform mechanisms to influence local governments equitably.

3. Patterns of discrimination exist in Argentina based on place of residence, nationality, ethnicity, gender and sexual orientation that exclude individuals from equal access to and enjoyment of ESCR. One of the most important ways structural discrimination manifests itself is through institutional violence perpetrated against individuals who advocate for rights related to housing, land and territory. Over the past several years, violent evictions leading to injuries, arbitrary arrests, and deaths have increased. This is compounded by a climate of permanent harassment and criminalization. For these reasons, the state must develop and promote measures to monitor the actions of police and security forces, in addition to the implementation of effective programs that will uphold ESCR.

4. The gap between men and women's enjoyment of ESCR is evident in various spheres such as employment. While women have increased access to education and training, these advances have not translated into equal access to jobs, promotions, and remuneration. On the contrary, unemployment and underemployment rates are higher among women than men, and there are still situations of vertical and horizontal segregation, wage differentials, and benefits. These inequalities are largely explained by the absence of public policies and regulations related to the balance between professional and family responsibilities, which often fall upon women. At the same time, paid domestic service - a main source of employment for lower income women - is also marked by discriminatory norms.

In addition, despite frequent recommendations by the CEDAW highlighting violence against women as a main form of discrimination, the state has not implemented comprehensive policies to deal with the various manifestations of violence and the obstacles that female victims encounter when they seek justice.

5. The rights of mentally disabled people in Argentina have seen significant progress since the passage of the Convention on the Rights of Persons with Disabilities and the National Mental Health Law (No. 26 657). However, patterns of "protection" which favour high rates of institutionalization and other restrictive measures still persist. The continuing existence of these measures not only impacts the exclusion, segregation and marginalization of people with mental illness, but also hinders the enjoyment of economic rights (the ability to own, manage and inherit goods); labour rights (structural

inequalities related to fair compensation); and family rights (the possibility to marry and care for children). These measures represent deterioration and worsening of conditions in the field of mental health. They undermine attempts to promote social bonds and to create support networks to actively incorporate individuals and deepen their cognitive, affective and volitional skills to develop a healthy, dignified and independent future.

In addition, despite the existing regulatory framework, people with mental disabilities and the organizations representing them encounter numerous barriers to participation in normative regulatory efforts and in the design of public policies that implement the social paradigm nature of the disability field. Existing mechanisms are insufficient, and those that do exist, do not take into account critical issues such as information regarding reasonable timeframes for the submission of proposals and announcements regarding meetings, public hearings, among others.

6. Despite Argentina's recent economic recovery, there are groups that remain in conditions of structural poverty. The measures implemented by the state have not been sufficient to overcome these social gaps. Large numbers of undocumented workers cannot access social security benefits, have no coverage against illness and on-the-job accidents, and are excluded from the retirement and pension system. There are also groups that are considered second-class workers. While regulations exist, these workers do not enjoy the same rights as other private, documented workers. These workers include domestic employees and rural farm workers. The situation of undocumented workers subjected to cases of extreme poverty and exploitative labour conditions is of extreme concern. In many cases, these workers are held captive with their children. This scenario is common in both the textile industries and in farming. Finally, many workers have also been excluded from unemployment insurance, which also lacks a mechanism for the periodic updating of insurance stipends.

7. Regarding labour union rights, it is important to note that the Union Law (Law No. 23,551) contains several provisions that run contrary to the general principle of freedom to organize and, in particular, to Convention No. 87 of the International Labour Organization and, as a result, to Article 8.3 of ICESCR. This is evident in the distinction made towards those labour unions with legal recognition to practice all union rights (unions with official legal standing) versus those with authorization to practice a limited number of union rights (unions imply registered).<sup>1</sup> Unions also face other difficult situations and practices. For example, employers often fire workers who organize or push for union demands. The Ministry of Labour also imposes several obstacles for resolving union registration and legal recognition requests, prolonging what should be a "simple" process over the course of years, among other difficulties.

8. The Universal Child Allowance (AUH) represents a historic step for social protection in Argentina that extends social services traditionally only received by families of formal employees to the informal sector and the unemployed. Notwithstanding, there is no mechanism in place to adapt the amount of the allowance to ensure its value in an inflationary context. In addition, and running contrary to the concept of a "universal" allowance, various sectors of the population are excluded from this important social protection mechanism. Another important limitation of the program is the limit of five children per family that is currently in place. For immigrants, the allowance requires legal residence in the country of no less than three years for parents and children alike, despite instances when children

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<sup>1</sup> For example, only the first category of unions to which the State grants official legal standing (in Spanish "personería gremial") are allowed to represent workers in collective negotiations and to call for strikes.

are born in Argentina. This is in violation of the principle of equality and non-discrimination based on nationality.

9. The State has established a system of non-contribution-based pensions or assistentialist pensions, (that does not depend on previous contributions from its recipients) for old age individuals, persons with disabilities, and mothers with more than 7 children. However, in the case of immigrants, beyond proof of social vulnerability, a minimum period of residency in the country is required. Given that these pensions are based on special conditions of vulnerability, the additional requirement of a certain number of years in the country is unreasonable and discriminatory based on nationality. Since 2003, numerous lawsuits have been filed. Despite positive results in favour of immigrants, the residency requirement has not been overturned. In addition, the positive advances that have been made have been on an individual basis and have not influenced the overall reform needed.

10. Regarding the protection of children and adolescents, the Comprehensive Protection Act (Law No. 26.061/2006) has been a breakthrough in the recognition of the rights of children in Argentina following the repeal of the previous law, which dated back to 1919. Notwithstanding this progress, standards still exist that favour institutionalization, the prolonged separation of children and adolescents from their families without regards to the specificities of each case, and with no limits regarding the length of separations. Children are also victims of labour exploitation in sweatshops where overcrowding, confinement, lack of access to basic goods such as education, health, and recreation, are the norm. Many are also victims of sex trafficking, affecting mostly girls and adolescents.

11. For the past decade, Argentina has experienced a severe urban housing crisis, which particularly affects low- and middle-income sectors. These groups are increasingly being forced either to live in slums and shantytowns or to rely on the informal rental market, lacking any form of legal protection. The increase in urban land prices, which has exacerbated this phenomenon, has also brought with it an exponential increase in evictions, exacerbated by procedures that do not conform to standards that protect the right to housing. The state must take measures beyond the construction of public housing. Such measures include regulation and planning of urban land to facilitate access by low-income sectors, for example, by regulating the residential real estate supply offered by the real estate market. In a similar vein, the state must also take steps to promote access to housing through mortgages and accessible rents. In this latter case, it must also ensure the legal security of tenant leases.

12. Non-communicable diseases (NCDs) have been identified by the World Health Organization (WHO) as the main threat to human health. These include cardiovascular disease, cancer, diabetes and chronic respiratory diseases. Together, these ailments result in the greatest numbers of death and disability worldwide. Though they account for about 60% of all causes of death, they only receive 0.5% of the funds for global development assistance. In Argentina, non-communicable diseases are also the leading cause of death. The most important risk factors of NCDs are the use of tobacco, poor nutrition, physical inactivity, and alcohol abuse. The development of prevention policies has been identified as the most effective course of action. For this reason, it is essential that the state implement measures to promote healthy eating and tobacco control.

13. The Argentine government fails to provide proper and necessary attention regarding the sexual and reproductive health of women. This results in serious consequences for the health and dignity of

women, particularly girls and adolescents. Of great concern are the deficient health services provided for sexual and reproductive health (especially for adolescents), the high rates of teen pregnancy and maternal mortality, the large number of clandestine abortions, and the absence of policies to reduce pre-and-post abortion risks.

14. The unequal and inequitable social structure that persists in Argentina, coupled with the decentralized education system by which schools were transferred from the national government to the provinces, creates inequities in the educational system that affect access to and the quality of services provided to children and youth. Serious problems of overcrowding, especially at the elementary-school level, exist. Quality varies from province to province, even within the same jurisdiction and neighbourhood. Throughout Argentina, many educational programs also are cut out of school curricula, such as comprehensive sex education. In addition, minimum school days per year are not implemented; and policies of inclusion for people with disabilities are poorly implemented or ignored all together. Given this situation, the national government should implement measures to bring to light the inequalities and exclusions that exist throughout the country, and strengthen local governments so they can provide education for all without discrimination.

15. The way in which land has been occupied in Argentina along with the patterns of appropriation of natural resources have left an indelible legacy that today must be handled by policies and benchmarks geared towards guaranteeing sustainability. Over the past several years, agricultural expansion, open pit mining, oil exploitation, deforestation, and land clearing are cause of considerable concern. Due to their negative impact on the environment, these activities also bring with them serious health problems, including impeded access to safe water sources and food. At the same time, these industries, and the actors and interests involved, have led to an increase in violent and illegal evictions. Indigenous and peasant social protest aimed at defending land, territory and the environment has been criminalized. Communities are increasingly displaced to urban centres where they end up living on the margins. It is necessary to take urgent actions to prevent the serious negative effects of the current development model based on natural resource extraction being implemented without oversight in Argentina.