



**EVALUATION OF COMPLIANCE WITH THE
CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW) IN ARGENTINA
IN THE FRAMEWORK OF THE SUBMISSION OF THE FOURTH PERIODIC REPORT
BEFORE THE CEDAW COMMITTEE
SESSION 65
OCTOBER 2016**

Distinguished Experts of the Committee

We are writing to you on behalf of *Abogados y Abogadas del NOA en Derechos Humanos y Estudios Sociales (ANDHES)*, *Asociación Católica por el Derecho a Decidir- Argentina (CDD)*; *Asociación Lola Mora, Centro de Estudios de Estado y Sociedad (CEDES)*; *Centro de Estudios Legales y Sociales (CELS)*; *Centro de la Mujer (CEDEM)*; *Colectivo de Investigación y Acción Jurídica de La Plata (CIAJ)*; *Centro de Intercambios y Servicios para el Cono Sur (CISCSA-AFM)*; *Comité de América Latina y el Caribe para la Defensa de los Derechos de las Mujeres (CLADEM)*; *Equipo Latinoamericano de Justicia y Género (ELA)*; *Feministas en acción*; *Fundación Interamericana del Corazón (FIC)*; *Fundación para el Estudio e Investigación de la Mujer (FEIM)*; *Fundación Siglo XXI, Instituto de Género, Derecho y Desarrollo (INSGENAR)*; *Mujeres trabajando*; *Mujeres en Igualdad*, and *Observatorio de Violencia de Género de la Defensoría del Pueblo de la Provincia de Buenos Aires*, in relation to the fourth periodic report submitted by the Argentine State on the effect of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

This presentation seeks to provide you with an alternative report prepared by a broad coalition of organizations, demonstrating the progress, setbacks, shortcomings and omissions of the Argentine Government regarding its obligation to respect, guarantee and enforce the rights contained in the Convention. It is important to clarify that the information included herein is not an exhaustive account of the problems related to the implementation of CEDAW in Argentina.

This report is organized according to the Committee's List of Questions and includes questions and recommendations suggested regarding each of the issues covered, in the hope that the Committee considers them both at the evaluation hearing scheduled for the 65th session and when issuing its Concluding Observations on Argentina.

We remain at your disposal to expand on or clarify anything you deem necessary.

Yours sincerely

1. Legislative and institutional framework

Although the Committee has already noted¹ that the Convention, like other international human rights instruments, has constitutional status in Argentina's legal system, its effective implementation remains limited and uneven in different jurisdictions. One of the main obstacles to monitoring the degree of compliance with the Convention at national, provincial and municipal levels has been access to information. Just recently in September 2016 a federal-level law was passed on access to information that we hope will allow for future access to the public information necessary for institutional accountability and monitoring. As we know, access to public information is an instrumental right, a means to an end, and therefore, its breach directly or indirectly affects every one of women's human rights.

The passing in 2009 of Law 26485 marked a paradigm shift in the approach to violence against women. The law incorporates the concept of comprehensive protection and references other forms of violence that women suffer outside the family or domestic setting. However, this law coexists with civil and criminal law and local laws that address violence against women solely in the family or domestic setting without incorporating the other forms covered by the Law. This legal inadequacy is evident in the law of misdemeanours in some provinces and municipal ordinances, an example of which is the persistence of **criminal mediation**² in the legislation of the province of Buenos Aires for offences related to domestic violence against women.³

Another law that produced important changes was the passing of Law 26743 of Gender Identity (2012) that provides the right to be identified in all documents referring to forename(s), image and sex in accordance with one's self-perceived gender identity and the right to change appearance or bodily function accordingly using pharmacological, surgical or other means, on condition that this is freely chosen. Application of the Law in the various spheres (including health services, education and work) is neither consistent nor satisfactory throughout the country.⁴

Suggested questions

- How has the Federal Government urged the provinces that make up the Federal State to adapt their provincial legislation to bring it in line with the Convention and Recommendations made by this Committee, so that it is consistently applied in every territory? How much progress have the provinces made to adapt their internal legislation to bring it in line with the Convention and other international instruments?

- What actions are being taken to ensure that public officials are aware of and respect the rights inherent to Gender Identity Law

Suggested recommendations

- The State should advance normative amendments at every level to adjust to international human rights standards. The current legal inconsistencies should be resolved by meeting the criteria of the international system of human rights.

- Establish an effective mechanism to ensure accountability and the transparent, consistent and systematic application of the Convention throughout the country, with the participation of national, provincial and local authorities.

- Ensure full implementation of the Gender Identity Law throughout the country, accompanied with training for all public officials, included in the training mentioned in the National Plan for Violence against Women.

2. Access to justice

Access to justice for the women who are victims of different forms of gender-based violence is a matter of great concern in Argentina. In spite of State efforts to create records, train officials and implement some initiatives to facilitate access across the country, major

¹See paragraph 13 of the report submitted by the Argentine State on 2 March 2015, CEDAW/C/ARG/7.

²According to the report *Monitoreo de políticas públicas y violencia de género* by the Ombudsman's Observatory of Gender-based Violence (OVG, from the Spanish) published in 2015, "...nationally - Law 26485 of Comprehensive Protection to prevent, punish and eradicate violence against women in the settings where they conduct their interpersonal relationships, in force since 14/04/2009 - expressly established a ban on continuing with "mediation hearings" in cases of gender-based violence, banning the arranging of hearings for reconciliation, mediation or other means that promote rapprochements and/or reconciliation between victim and person, however article 6 of Law 13433 (Law of Criminal Mediation) establishes that the aforementioned (the mediation body) may use it in correctional cases "related to events arising for reasons of family, coexistence or neighbourly relations". **In every Judicial District, the cases that are mostly referred are those relating to Simple Threats and Minor Injuries.** <https://www.defensorba.org.ar/publicaciones/informe-ovg-2014-2015/download/Informe-Anual-OVG-2014-2015-Monitoreo-de-Politicasy-Violencia-de-Genero.pdf>

³For example, there are municipal ordinances that permit the setting up of places where women and girls are sexually exploited, while the latest amendment to the human-trafficking law amending the Penal Code prohibits any form of facilitation and/or promotion of the sexual exploitation of persons (Article 125 of the Penal Code), and there are also ordinances that penalize offering and/or requesting sex in public spaces that violate the right to free circulation and that result in police harassment. See <https://www.ammar.org.ar/IMG/pdf/informe-ammar.pdf>.

⁴In this period of evaluation of Argentina, an alternative report is presented specifically on the situation of trans and *travesti* women, written by a broad coalition of organizations and movements.

difficulties continue to occur on account of the persistence of sexist stereotypes perpetuated by officials of the justice system at every level and difficulties in the planning and coordination of actions at federal level.⁵

Police stations continue to be the main resource for women who seek help. In the province of Buenos Aires, most reports of violence against women in the family setting are made at police stations.⁶

One of the problems found in the justice system is the lack of connection between cases brought by the same women against the same offender. In general, women file several complaints for different acts of domestic violence prompting legal cases that are heard in one or more courts (Family court, in Justices of the Peace for the cessation of situations of violence and/or the handing down of protective measures, or in the Criminal Court when there are such crimes as threats, wounding, attempted murder or murder) without a connection necessarily being made between cases.⁷ In the province of Buenos Aires, a resolution of the General Attorney of the Supreme Court of Justice of the Province⁸ recommended joining cases brought by the same victim, but this resolution has been interpreted in different ways, resulting in cases brought by women victims still being taken on by different prosecutors' offices.⁹ This dispersion of judicial proceedings creates problems for **records**, as it hampers the procedural tracking of cases to develop analyses that reflect the magnitude of the problem.

The lack of coordination between the judicial and executive branches can be confirmed by the large numbers of cases of women murdered throughout the country despite having protective measures ordered.¹⁰

Mariana Condorí was aged 20 when she was found dead in the makeshift house where she lived with her partner Gabriel Maldonado and their three children. Maldonado committed physical and psychological violence against her, prevented her from exercising economic autonomy and assaulted their children, which is why Mariana reported him to the police. When the prosecutor received the report she started a mediation process without giving the victim any protective measure. A few days later, Mariana committed suicide. Her family and neighbours testified that the context of aggression against her intensified after she made the complaint. Mariana's family filed a complaint against the prosecutor to the General Prosecution Office of the Supreme Court of Justice of Buenos Aires for not having taken effective protective measures in the face of the high risk alleged by the victim in her police report (the partner's history of violence and firearms possession) and for having ordered mediation. The complaint was dismissed because in the Province of Buenos Aires, family conflicts must be subjected to the prior criminal mediation mechanism. Prosecutor Budiño filed a complaint against Mariana's family's defence lawyer, Sofia Caravelos. The nature of the complaint and the time it was made constituted an attempt to discipline those who support victims of gender-based violence and was a serious encroachment on the exercise of profession and freedom of expression.

The lack of access to free legal aid is one of the greatest difficulties women face when taking cases forward after the complaint has been made. In late 2015, Law 27210 was passed creating the Corps of Lawyers within the National Secretariat for Justice and Human Rights with the purpose of providing free legal aid and comprehensive assistance throughout the whole country to victims of gender-based violence, including for reasons of gender identity or sexual orientation. There is a need to move forward with its regulation, budget allocation and prompt implementation.

We would point out that on many occasions **the judiciary and the justice system themselves operate as obstacles to access to justice**, be this through the absence of institutional capacity to deal with issues, the lack of coordination already described or because

⁵See <http://www.cnm.gov.ar/AreasDeIntervencion/RegistroUnicoCasos.html>

⁶In the Judicial District of La Plata, of every 10 cases taken to the *Receptoría General de Expedientes*, 8 are from police stations. Information provided by Dr. Alejandro César Raggio, Head of the *Receptoría General de Expedientes* of the Legal District of La Plata.

⁷In January 2006 the creation was announced in the Province of Jujuy of **Courts specializing in gender-based violence** with jurisdiction in civil and criminal matters. Under the law, courts were to be composed of judges who are lawyers, permanently assisted by an interdisciplinary body made up of medical and health professionals and psychologists among others. While the budget line has already been approved, the Special Courts are not in operation and the regulations for the law have not been made.

⁸Resolution No. 346/14 cited at www.mpba.gov.ar

⁹For example, in the Judicial District of La Plata, protective measures are handed down in the family court specializing in protection against domestic violence, another family court rules on visitation rights, alimony and housing tenure, and another criminal case investigates whether the alleged facts constitute a crime. Most of the time these cases are heard taking no account of the history of violence that there may be in the other cases. *Informe Monitoreo de políticas públicas y violencia de género*. Ombudsman's Observatory of Gender-based Violence (OVG, in Spanish), 2015. <https://www.defensorba.org.ar/publicaciones/informe-ovg-2014-2015/download/Informe-Anual-OVG-2014-2015-Monitoreo-de-Politicas-Publicas-y-Violencia-de-Genero.pdf>

¹⁰*Informe Monitoreo de políticas públicas y violencia de género*. Ombudsman's Observatory of Gender-based Violence, 2015 <https://www.defensorba.org.ar/publicaciones/informe-ovg-2014-2015/download/Informe-Anual-OVG-2014-2015-Monitoreo-de-Politicas-Publicas-y-Violencia-de-Genero.pdf>

criteria based on prejudices and stereotypes remain active, fostering new cases of violence against women, this time in the form of institutional violence.

On 30 July 2016, **Nilda Beatriz Álvarez**, from Villa Constitución in the province of Santa Fe, was sentenced to 12 years in prison for the alleged commission of aggregated murder of a family member in spite of it being proven in court that in the more than 25 years they lived together she suffered serious domestic violence on a daily basis. Nilda reported the aggressor on several occasions but the measures taken by the justice system were insufficient to protect her. At trial, self-defence was not considered as an extenuating circumstance. Nilda's case is an example of how gender prejudices and stereotypes operate, as the context of structural violence suffered by the woman in the domestic setting was not taken into account. The decision was appealed at Rosario Court of Criminal Appeals and a decision should be made in October 2016.

Belén's case is another example of this: Belén, a young woman from Tucumán, went to a public hospital because she was feeling unwell, unaware that she was pregnant, and later miscarried. The fact that Belén was sentenced for her miscarriage,¹¹ demonstrates how the State violated her rights from the moment she arrived at hospital. Belén was imprisoned for more than two years. The court that found her guilty based part of its arguments on the fact that her official defence lawyer did not challenge the allegations against her, rather than on the existence of evidence against her. The decision was appealed and the Supreme Court of Justice of the Province will make a ruling.

On 1 June 2011, the young woman **C.E.R.**, aged 19, reported her father for repeatedly raping her and her sisters since the age of 13. C.E.R. had no legal assistance to initiate the case and no support. The Criminal Judge of Vera, Dr Nicolás Muse Chemes, found the defendant not guilty, **on the basis of discriminatory concepts, gender stereotypes and myths about rape**. CLADEM Argentina and INSGENAR presented the case to the CEDAW Committee.¹²

The situation of women with psychosocial disabilities deserves special attention. This group has significant structural obstacles to access to justice, which has an impact on their ability to report situations of gender-based violence.¹³ Some of these obstacles include: the widespread practice of indefinite institutionalization in public or private places of confinement that seal off relations with other people and limit access to institutional spaces outside of mental institutions; the prevalent practice of restricting the exercise of legal capacity, leading to it being impossible to bring actions or participate in legal proceedings on their own account;¹⁴ and the lack of accessibility and reasonable accommodations within the administrative justice system and State security organs; and the prejudices of public officials who work in these systems who tend to doubt the credibility of their testimony. While Argentina ratified its accession to the Convention on the Rights of Persons with Disabilities in 2008 and passed the National Mental Health Act (26657) in 2010, full implementation of this regulatory framework is still facing profound challenges from a comprehensive perspective of the specific needs of women with psychosocial disabilities. The situation described is not flagged as a specific violation of women's rights and this is why judicial agents who ought to be ensuring the rights of this group accept the abandonment to which they are subjected as natural and only question it on specific occasions.

With regard to **the investigation and prosecution of sexual violence crimes that took place in State terrorism**: In the first trials of members of the military juntas (1985), and since the first trial that commenced in the phase known as the trials for crimes against humanity, the life partners, fellow activists and colleagues of the victims as well as the victims themselves told the courts of the rapes and sexual abuses they themselves suffered or that they witnessed. Despite the recurrence and magnitude of these accounts, these crimes were not heard in trials before 2010 for legal, political and cultural reasons and they were instead subsumed within the legal notion of torment. The prevalence of gender blindness in the response to sexual violence as a systematic practice during the dictatorship and suffered with particular rigour by the women in the Clandestine Detention Centres has been brought into question. These crimes began to be prosecuted as crimes against humanity separate from the crimes of torment and torture as were crimes of perpetration by means, punishing not only the material and direct perpetrators of the sexual violence but also those who condoned or

¹¹See more information on this case in the annex to this report on abortion and miscarriage. The United Nations Human Rights Committee made special reference to this case in its Concluding Observations 2016.

¹²Communication No. 63/2013. For more information on this case, see the document annexed to this report.

¹³CELS has researched and documented obstruction of access to justice for persons with psychosocial disabilities in Argentina since 2004. In civil law, with the last reform of the Civil and Commercial Code, the possibility is maintained of restricting the exercise of legal capacity by persons with psychosocial disabilities, and designated legal officers, by way of judgements, play a determining role in the relationship between the person affected by a restraint order and the justice system. In criminal law, provincial and national procedure codes have not adapted their provision to the new concept of legal capacity brought in by the Civil Code.

¹⁴Code of Criminal Procedure of the Nation. Art. 82. - Anyone with civil capacity individually affected by a criminal offence shall have the right to become a plaintiff and as such bring a case, provide elements of proof, argue them and invoke the articles established in this Code. In the case of a person without capacity, his or her legal representative will act on his or her behalf.

took responsibility for it through the command hierarchy. In spite of these efforts, the balance is not very encouraging. In the ten years from 2006, the year of the reopening of the trials for crimes against humanity, to May 2016, there have been 162 convictions for crimes committed during the last military dictatorship,¹⁵ 11 of which (6.7% of the total) include convictions for sexual offences, and not always as a separate offence. In this context, an issue that causes concern is the slow progress of investigations, procedures and court decisions, due in part to the lack of integration of the courts and the infrequency of hearings.¹⁶

Suggested questions

- Please provide information on which measures from the National Action Plan for Violence against Women are expected to ensure comprehensive access to justice across the whole country.
- Please provide information on measures and training programmes for officials responsible for fulfilling the law in the national, provincial and municipal plan in relation to every aspect of women's access to justice, as per general recommendation No. 33 (2015) of the Committee on Women's Access to Justice.
- How is the Argentine justice system making progress on incorporating the "Brasilia Regulations" on access to justice for vulnerable people?
- What measures have been adopted so that those involved in the judiciary (judges, prosecutors, advocates and others) are aware of the rights of women and the obligations of the State under the CEDAW Convention and General Recommendation 19?
- On free legal aid for women victims of violence, please provide information on the current stage of the approval process, what budgetary allocation is planned and when it is estimated that the law will be in operation.
- On women with disabilities, please provide information on measures planned to eliminate the barriers they face in relation to legal capacity, including women with cognitive and psychosocial disabilities, especially with regard to the provision of access systems, support and reasonable accommodations in judicial processes affecting them.
- On women with disabilities, please provide information on measures planned to identify, define, prevent, eliminate and punish practices of abuse and violence against women with disabilities, including women with cognitive and psychosocial disabilities, admitted to public and/or private residential institutions.

Suggested recommendations

- Create a unified recording system for violence against women, shared by the different branches of the judiciary - national and provincial - and from these with executive areas.
- Ensure application of the National Mental Health Act and measures planned to eliminate the barriers women with cognitive and psychosocial disabilities face, especially with regard to the provision of access systems, support and reasonable accommodations in judicial processes affecting them.
- Guarantee that the trials for crimes committed during the civilian and military dictatorship continue and that they have all necessary human, technical, financial, documentary, legal and institutional resources.

3. Women, Peace and Security

In 2011, with the participation of women's organizations, the National Action Plan of the Republic of Argentina was developed for implementation of resolution 1325 (2000). The Plan was approved in September 2015, but women's organizations have not been involved in its implementation or monitoring. There is no information on the activities conducted to date. Its budget allocation, timeframe for implementation and the mechanisms to evaluate the impact on women's rights of the assignment of officials to conflict areas are also unknown.¹⁷ Of 867 people mobilized in humanitarian assistance operations in Haiti and Cyprus, there were only 51 women, 5.9% of the total.

Suggested question

- Please provide information on the budget allocation for the Plan, its fixed-date targets and its indicators for evaluation.
- Please report the number of women at decision-making levels in peacekeeping/humanitarian missions.

5. Stereotypes and harmful practices

¹⁵Taken from: Dossier of sentences handed down in trials for crimes against humanity in Argentina, Office of Crimes against Humanity. Office of Public Prosecutions. 2016

¹⁶The United Nations Human Rights Committee, in its latest Concluding Observations, made explicit reference to this issue. See paragraphs 27 and 28 of the Concluding Observations published July 2016.

¹⁷Considerations on its implementation in the Republic of Argentina - period 2011 / 2015. Feministas en Acción (Feminists in Action).

Among the issues rooted in social stereotypes perpetuated by public officials, we have chosen two serious examples on account of their impacts on the lives of women and girls: Forced child pregnancy and maternity and judiciary officers' persistent discrimination against women.

According to figures of the last five years from official records, every year more than 3000 girls aged under 15 face pregnancies and childbirth. An average of nine girls per day use the health system to give birth. The majority of pregnancies in this age range are the result of sexual abuse inflicted on girls by family members (fathers, step-fathers, brothers, uncles, etc.) or by males who are close to the family circle.¹⁸ Girls aged 14, 13, 12 and younger who are forced by others to continue their pregnancies and give birth, on the basis of the requirement to be mothers, see a restriction of their rights to education and, in the long run, work and socio-economic opportunities in general.¹⁹

The second example is the discriminatory way in which officers of the judicial system regard women who are criminalized or co-accused with their partners of crimes committed against their children (homicide and sexual abuse) based on stereotypes associated with the exercise of motherhood. In general these cases follow the precedent set by the National Supreme Court (CSJN) when it decided by majority verdict to confirm the sentencing to life imprisonment of a woman for committing the homicide of her daughter by omission.²⁰

We understand that for women accused of committing these crimes the priority consideration of their history of violence is decisive to ensure the upholding of their right to defence at trial. Lack of knowledge of the specific features of violence in a context of strong dominance relationships in the family setting, together with the prejudices that define and reinforce discriminatory practices by officers of the judicial system promote processes of criminalization against women victims of violence.

Celina Benítez was arrested for the death of her daughter,²¹ who showed signs of sexual abuse and physical injury - from hits to burns - all over her body. Few hours after her death, Celina and her partner were arrested by order of prosecutor Carolina Carballido Calatayud, in charge of the Gender-Based Violence Unit in Derqui, in the Judicial District of San Isidro. She accused Celina of abandonment for not having ensured her daughter's welfare. The prosecutor did not consider that Carolina was a victim of violence or that the violence against her children was part of her punishment, like so many other cases.²²

The acceptance and use in various courts of the false Parental Alienation Syndrome (PAS)²³ in cases of child sexual abuse is similar. It is estimated that one in five children is abused by a direct relative before the age of 18.²⁴ Acceptance of the false PAS by some agents of the justice system in cases of parental disputes gives rise to doubting the existence of abuse and in turn forcing the child to re-establish a relationship with the abuser under the argument that the reports are a result of the mother's influence on the children. This serious situation is added to by the fact that these complaints are processed in both civil and criminal courts, highlighting the lack of criteria and institutional coordination resulting in situations of boys and girls repeatedly being made victims.

Suggested questions

- Please provide information on the scope, content and compulsoriness of gender training received by agents of the judicial system.
- Please provide information on the measures that have been taken to train judicial staff on child sex abuse and the false Parental Alienation Syndrome or other forms of designation that prevent access to justice.

¹⁸CLADEM (2016). *Niñas Madres. Embarazo y maternidad Infantil forzada en América Latina y el Caribe*. Available at: www.cladem.org

¹⁹For more information, see the specific report on the situation of abortion in Argentina.

²⁰CSJN, "R., R.M y otros.p.ss.aa homicidio calificado", 20 August 2014

²¹See press reports: <http://www.pagina12.com.ar/diario/suplementos/las12/13-9815-2015-06-20.html>; <http://www.pagina12.com.ar/diario/suplementos/las12/13-10083-2015-10-09.html>; <http://www.laotrazvozdigital.com/malas-madres-cuando-la-justicia-acusa-a-victimas-de-violencia-de-genero/>

²²Report: *Monitoreo de políticas públicas y violencia de género*. Observatorio de Violencia de Género de la Defensoría del Pueblo (OVG), 2015: <https://www.defensorbpa.org.ar/publicaciones/informe-ovg-2014-2015/download/Informe-Anual-OVG-2014-2015-Monitoreo-de-Políticas-Públicas-y-Violencia-de-Genero.pdf>

²³PAS is a concept that has not been the subject of empirical studies and has not been published in scientific journals for review. It is a theory used in child custody legal disputes. See information in *Abuso sexual en la infancia*. Bianco, M.; Chaparones, N.G; Müller, M.B; and Wachter, P. June 2016, FEIM. Available at: <http://www.feim.org.ar/pdf/publicaciones/GuiaASI2015.pdf> y <http://www.pagina12.com.ar/diario/suplementos/las12/13-10726-2016-07-19.html>

See information on different cases that have been made public: <http://www.pagina12.com.ar/diario/suplementos/las12/13-10665-2016-06-25.html>; <http://www.pagina12.com.ar/diario/sociedad/3-306872-2016-08-15.html>, among others.

²⁴Bringiotti, Ma.I. and Raffo, P: *Abuso Sexual Infante Juvenil*, Revista el derecho de familia, No.46, July/August 2010.

Suggested recommendations

- Develop statistical systems that enable the recording of pregnancy data by age group, the number of instances of care for pregnancies and overcome the under-reporting of abortions.
- Provide safe abortion services for girls who have been raped.
- Design public policies to prevent forced child pregnancy and maternity.
- Ensure application of the Sexual Health and Responsible Procreation Law and the Comprehensive Sex Education Law, as well as the national reach of the programmes created by them throughout the country to contribute to the empowerment of girls and to provide comprehensive sex education, access to reproductive health services and psychological and legal counselling for girls and adolescents.
- Ensure regular compulsory training by appropriate professionals in gender issues for agents of the judicial system.

6. Violence against women

The passing of Law 26485 for comprehensive protection against all forms of violence against women in their interpersonal relationships ("Law 26485") in 2009 marked a paradigm shift in the approach to gender-based violence. This law placed our country among those passing second generation laws after a first decade that focused on family or domestic violence. The law received its regulations one year later with Decree 1011/2010. In the years that followed, the provinces passed local laws to adhere to the text of the Comprehensive Violence Act, adapting it on occasions to the particular features of each local context.

6.a. Advances in the effective implementation of Law 26485 on the Comprehensive Protection of Women: the National Action Plan. One of the central claims of civil society after implementation of the Law was the formulation, approval and implementation of a National Action Plan (NAP),²⁵ in fulfilment of the mandate the Law gives to the implementing agency, the National Council of Women (CNM in Spanish). In October 2015, the CNM presented as a Plan²⁶ a document that contained the lines of action and management from 2003 through to 2015. While the NAP presented was for 2014-2016, its publication was in October 2015. This document was widely criticized by women's and feminist organizations. In July 2016, the new Government administration presented a NAP to cover the period 2017-2019, including diagnosis and proposed lines of action. Although the Plan recognizes violence against women as a structural phenomenon that is cross cut by social, political, economic and cultural dimensions and which needs preventive work based on a comprehensive model oriented by the guiding principles of interdisciplinary, geographical coverage and intersectorality, the analysis presented focuses mainly on domestic violence and, in particular, on intimate partner femicide. The NAP is structured around two areas of action (prevention and comprehensive care) and three cross-cutting themes (training, institutional strengthening and monitoring and evaluation). The NAP sets out a three-year budget, 80% of which is earmarked for the construction of 36 *Comprehensive Protection Homes* (CPR) in locations that have not yet been identified. Information has not been published on the resources provided by the various national ministries involved in actions included in the NAP or the mechanisms to ensure such actions take place. Neither does it give any details on how it will provide the capacity-building, training and supervision of technical teams, what body will conduct monitoring and control and how it will ensure payment of its salaries.

Once the NAP was presented, there was a period during which civil society had an opportunity to comment on the plan, but the participation was low. While the steps taken by the CNM to strengthen the Civil Society Ad Honorem Consultative Council²⁷ are auspicious, the formal requirements exclude the participation of more diverse social organizations that have a strong presence nationwide but do not necessarily meet the formal requirements. Measure 54 of the NAP establishes the creation of a forum for non-registered organizations to meet this gap, due to be implemented by June 2017.

6.b. Information on violence against women. The production of information on violence against women continues to be fragmented, diverse and sporadic. This makes it difficult to conduct an analysis that demonstrates the real incidence and prevalence of the various manifestations of violence against women and takes regional particularities into account as well. The NAP provides for building a national statistical system (Measure 60) including a national survey planned for June 2017. In Argentina to date, there has been no national survey to find out the prevalence and incidence of violence against women in partner and ex-partner relationships. The only

²⁵A group of civil society organizations asked the CNM for public presentation of the NAP that the body had reported on repeatedly in international bodies (including the CEDAW Committee), although it has never been made public in Argentina. The text of the note can see at this link: <http://www.ela.org.ar/a2/index.cfm?fuseaction=MUESTRA&codcontenido=2162&plcontempl=12&aplicacion=app187&cnl=4&opc=6>

²⁶http://www.cnm.gov.ar/MaterialDeDifusion/PlanNacional_2014_2016.pdf

²⁷Participation is open to organizations that have had legal personality for more than three years, endorsed by the Federal Minister of the province in which it they are registered.

incidence survey was done in the Autonomous City of Buenos Aires (CABA, in Spanish),²⁸ where more than half of women said that they had suffered psychological violence by a current or former partner at some time in their lives. Acts of physical and sexual violence have affected one in four women residing in the city. This physical violence was exercised by a current or former partner in 22.3% of cases. One in ten women had suffered severe physical violence. Two in ten women said these episodes of violence occurred "often". Situations of sexual violence in the context of partner relationships affected two in ten women. On the other hand, only one in ten who said that they had experienced situations of physical, psychological or sexual violence at some point in their lives had turned to a public institution to seek help.²⁹ Furthermore, only three in ten women who had experienced situations of violence had shared this with someone in their inner circle (family or friends).

In the absence of data on prevalence and incidence, the CNM signed an agreement some years ago with the National Institute of Statistics and Censuses (INDEC, in Spanish) to develop the Central Register of Cases of Violence against Women (RUCVCM, in Spanish). Only in September 2015, a partial report was presented for the period January 2013 to July 2015.³⁰ The continuation of this agreement for it to be extended to Federal level is repeated in the NAP. It would be important to know the future work plan.

With regard to femicides, there is a need to mention the disparity between the the criterias used to produced this information. An example of this is the information produced byt the Judicial Authority of the Province of Buenos Aires. According to information provided by the Provincial Office of the Prosecutor to the Provincial Ombudsman's Observatory of Gender-based Violence (OVG, in Spanish) between 2013 and 2014 not a single criminal investigation was initiated for femicide in the province,³¹ meanwhile in 2015 the Provincial Office of the Prosecutor published a report informing that there had been 97 femicides.³²

Because of the lack of oficial documentation of femicides, civil society organizations like the *Casa del Encuentro* began to develop their own anual register dating back to 2008. The numbers are striking: in 2010 there were 260 femicides; in 2011, 282 femicides; in 2012, 255; in 2013, 295; in 2014, 277 and in 2015, 286 femicides and 42 "related" femicides of men and boys.³³

While administrative records are key to assessing the operation, response and improvement of the policies of State institutions, they cannot provide information on those who never approach them for help, either because they do not know that certain services are available or because they decide not to use them. Differences between the data that may be gained from a survey and those arising from administrative records (that report on assistance received) are interesting in at least two aspects: the women's ages and their socio-educational levels. While one survey conducted in CABA shows no substantive differences between women in different age groups suffering physical, sexual or psychological violence, reading the data in administrative records shows a different situation. Analysis of those contacting the CNM *National Hotline 144* in 2015 shows that they were mostly young women: 35% of cases were women aged 19 to 30; in 29% of cases they were women aged 31 to 40; in 16% of cases they were women aged 41 to 49, and only 8% of them were women in the 51 to 60 age range. The RUCVCM showed similar results: nearly half of cases recorded in different areas of assistance (justice or health services) corresponded to the 30 to 49 age range.

These data indicate that although women of all ages and socio-educational levels experience violence, women with lower levels of formal education, for various reasons, do not turn to public support services and neither do women with higher or university education levels. The cross-cutting nature of violence throughout women's lives, crossing every social class, shows the need to design better mechanisms to make services reach adolescent girls and young women, as well as to adult women aged over 50 years, so that the services are accessible to all. Another perception study by civil society in the provinces of Jujuy and Chaco³⁴ show that at least half of

²⁸The survey was conducted on a sample of 1003 women residing in Buenos Aires, between November 2015 and January 2016. It was conducted with the technical assistance of the civil society organization ELA. It is available at: <http://www.ela.org.ar/a2/index.cfm?aplicacion=app187&cnl=14&opc=49>

²⁹In these cases, police stations are the main resource mentioned by women (fewer than 5%). The institutions of the judiciary were little known to the women surveyed.

³⁰<http://www.cnm.gov.ar/AreasDeIntervencion/RegistroUnicoCasos.html>

³¹*Observatorio de Violencia de Género de la Defensoría del Pueblo (OVG) Informe 2015 "Monitoreo de políticas públicas y violencia de género"* <https://www.defensorba.org.ar/publicaciones/informe-ovg-2014-2015/download/Informe-Anual-OVG-2014-2015-Monitoreo-de-Politicas-Publicas-y-Violencia-de-Genero.pdf>

³² <http://www.mppa.gov.ar/web/contenido/Informe%20de%20Femicidios.pdf>

³³ See more information at: <http://www.lacasadelencontro.org/femicidios.html>

³⁴The organizations CAREF, ELA, Fundación Siglo 21 (21st Century Foundation) and MEI conducted a perception study of violence against women with men and women aged 18 to 69 in the period from September to December 2015 in the provinces of Jujuy and Chaco.

respondents know of situations of domestic violence, but one in ten do not perceive economic violence as a form of violence. Moreover, infidelity is considered a "justification" for violence in 20% of cases.

Despite every province in the country having adhered to Law 26485 through local regulations, this has not resulted in the adoption of unified frameworks of reference for implementing public policies. On the contrary, there are multiple action protocols in operation side by side, approved by different ministries (taking account of the difficulties in coordinating work), that are frequently neither known to nor applied by the authorities for whom they are intended. The authorities with powers to apply the approved rules do not have sufficient funding to carry out their duties.

In Neuquén, Law 2887 (2013)³⁵ created the Observatory on Violence against Women within the Provincial Women's Council with the goal of "developing a permanent information system that will provide inputs for the design, implementation and monitoring of public policies to prevent and eradicate violence against women," but it was not implemented. In Chaco, there has been an emergency telephone line (137) in operation since August 2012 to respond to situations of violence in its capital city and its metropolitan area, offering care with professionals in the fields of law, psychology and social work to guide and give immediate attention to victims of domestic and sexual violence. Nevertheless, the professionals working there do so in contexts of precarious, unprotected employment.³⁶ The province of Corrientes adhered to the National Law through its Law 5903 and declared a Social Emergency on account of gender-based violence, creating an employment assistance programme for women victims of violence. Law 5563 created the Programme of Prevention and Comprehensive Care for Victims of Domestic Violence and Law 5665 created the Support Protocol for Victims of Sexual Violence. In addition, Law 6268 created the Protocol for Police Action in relation to Gender-based Violence. This abundant legislation has not been implemented and has no allocated budget.

In the province of Buenos Aires much of the budget's financial and human resources have been concentrated in the creation of institutional arrangements that attend to complaints filed in police stations and judicial offices at the beginning of the reporting process, but do not include comprehensive mechanisms to follow-up on assistance for women who have suffered violence. The provincial government has not defined policies or programmes dedicated to improving women's access to land, housing and formal employment.³⁷

There exist wide variations in the amount of resources available in the capitals of provinces as opposed to other areas. The free legal aid guaranteed by Law 26485 for every case of violence against women (regardless of the type of violence or the woman's age or socio-economic status) is insufficient. In some cases, the aid is covered by the Office of Public Defenders, located at the headquarters of judicial districts, but there are no similar resources for places in the interior of provinces. Difficulties in access to justice increase when there is a lack of free legal aid. The system of free legal aid provided under the Law has yet to be implemented.

Inquiries conducted in different jurisdictions show that although there are programmes in the areas of justice, health and social development that respond to violence against women, the programmes are uncoordinated or overlapping: their functions and tasks are unknown, as are their budget allocations; they do not guarantee sufficient mechanisms (in terms of human resources, interdisciplinary teams, grants, licensing, child care, support and continuity of care) to respond to demand and they do not produce public statistics on situations and cases of gender-based violence that occur or are attended by the different services. The lack of a holistic approach can also be seen in the lack of financial support policies for women. The income transfer programme called "*Ellas Hacen*" ("Women Do"), implemented by national government in several provinces has not provided information that could confirm the arrival of this resource to women in situations of violence.³⁸

6.c. The importance of an intersectional focus in the approach to violence against women. Several studies have found that migrant women are exposed to various violent situations in their countries of origin, throughout their journey and at their destinations. It is therefore necessary to consider this group of women as a group that is overexposed to situations of gender-based violence and, therefore, essential to be taken into account in the corresponding public policies. Nonetheless, it is equally essential to identify the specific inequalities that affect them in each local context and to identify the social structures behind them in order to avoid any

³⁵<http://www.legislaturaneuquen.gov.ar/hln/documentos/VerTaqui/XLII/AnexoReunion28/LEY2887.pdf>

³⁶<http://chacodiapordia.com/noticia/87907/linea-137-acerca-de-un-trabajo-silencioso>

³⁷Observatorio de Violencia de Género de la Defensoría del Pueblo (OVG) *Informe 2015 "Monitoreo de políticas públicas y violencia de género"* <https://www.defensorba.org.ar/publicaciones/informe-ovg-2014-2015/download/Informe-Anual-OVG-2014-2015-Monitoreo-de-Politicas-Publicas-y-Violencia-de-Genero.pdf>

³⁸Gherardi, N., Martelotte, L. and Pautassi, L. "*EllasHacen y (también) cuidan. Análisis del programa EllasHacen de Argentina desde la perspectiva del derecho al cuidado*". Paper presented at the VIII Latin American Congress of Labour Studies. 3 to 5 August 2016. Faculty of Economics, University of Buenos Aires.

stereotypical and homogenizing interpretation that over-simplifies the issue. There are various drivers for situations of violence against migrant women: social isolation and a lack of family support networks; taking precarious employment; insufficient access to social rights; difficulties in regularizing their immigration status; lack of knowledge of the local language; sometimes insufficient knowledge of their rights as women and migrants; discrimination on the basis of legal status, age, social class, ethnicity or nationality; lack of knowledge of support circuits and access to justice; fear of reporting violence (through believing that this could affect their immigration status, lead to deportation or jeopardize custody of their children) and possible previous experience of violence in their places of origin. The overexposure of migrant women to violence is connected to particular socio-economic conditions and cultural processes of discrimination and should not be understood as a result of the conditions of migrant women *per se* (considered in homogenizing terms) nor as a result of characteristics attributed to certain nationalities or ethnic groups - sometimes perceived as inherently violent - or the women or men of these groups or nationalities - sometimes stereotyped as "submissive women" and "macho men".

The research conducted in 2015 by CAREF warns that there are some specific features in the cases of migrant women victims of violence. Principally, these are **discriminatory institutional practices** through which non-regularized migrant women are prevented from filing complaints at police stations and from having protective measures implemented due to not having Argentine documentation (which reflects a breach of the Migrations Act 25871 which guarantees the same conditions of protection, safeguard and rights in accessing social services, justice and social security). The research confirmed that not having a national identity document means that women face multiple bureaucratic obstacles in accessing justice. Given this, it is necessary to open channels of communication, information and reporting for these cases. The National Migration Agency, together with the areas of human and gender rights, should be the accessible channels that provide women with effective resolutions to this issue. A particular feature has also been noted in the types of discrimination suffered by women migrants at the institutional level, rooted in their nationality, ethnicity and the fact that they are foreign. Cultural prejudices and discriminatory treatment (where previous discrimination intersects with that inherent to gender and class) persist in institutional practices among the different bodies with which migrant women victims of violence have to deal. This not only implies a rights violation that affects their quality of life, but also acts as an excluding and deterrent factor in relation to their access to justice. These particular characteristics have not yet been addressed, nor are they part of institutional agendas, resulting in the non-existence of policies on violence that take into account the needs of migrant women.

Indigenous women also face additional obstacles due to their identity categories as women and as indigenous. Western categories such as family, community or even state take on different meanings when they are applied to indigenous communities. Environmental pollution, for example, affects access to and control of community lands and also affects the care work carried out by indigenous women because of the health problems resulting from the pollution.³⁹ Investigations jointly carried out with the Council of Indigenous Organizations of Jujuy (COAJ) show that public policies to address violence against indigenous women cannot be conceived in isolation, without taking account of the co-implications of other forms of discrimination faced by indigenous women. Firstly, symbolic and intercultural aspects are essential for indigenous women's access to justice. In this regard, it is essential to address violence against indigenous women without neglecting the **collective aspect of their identity as indigenous**. Institutional violence is a constant in women's accounts. Research shows that the main obstacles to access to health care that spontaneously arise in indigenous women's accounts are material: geographical barriers in time and distance, worsened by lack of accessible roads and transport.⁴⁰

6.d. Other forms of violence insufficiently addressed by public policies. While Law 26485 identifies different manifestations and settings in which violence against women occurs, most public efforts have largely focused on domestic violence, in particular violence occurring in partner relationships. **Sexual harassment in the workplace** is only partly regulated by public authorities and despite it being a widespread phenomenon it is widely accepted as natural and there have been few complaints made.⁴¹ Similarly, **sexual harassment in educational settings** has been traditionally silenced by universities in spite of women making up more than 60% of graduates of Argentina's universities. In recent years, several universities (including the University of Comahue, The National University of Córdoba and the University of Buenos Aires) have approved protocols for dealing with sexual harassment and sexual violence. Nevertheless, there is no information on the extent of the problem and none on awareness campaigns to denormalize deep-rooted practices of violence and discrimination. It is important to establish monitoring systems to assess the effectiveness of the reporting mechanisms created, including the responses made and the forms of reparation.

³⁹Koukkanen, Rauna, "Autodeterminación y derechos de las mujeres indígenas en la intersección con el derecho internacional de los derechos humanos", *Human Rights Quarterly*, Vol. 34, No. 1, Feb. 2012, p. 225-250.

⁴⁰ELA – COAJ, *Mujeres indígenas en la provincia de Jujuy. Hacia un abordaje integral sobre el acceso a los derechos*.

⁴¹The latest data published by the Office of Assistance for Workplace Violence (OAVL), created within the Argentinian Ministry of Labour, contains no statistics for later than 2012. From statistics prepared by the OAVL on the basis of 450 cases received between 2006 and 2008, it emerges that 60% of complainants are women and of these cases, 81% were related to situations of psychological violence, 9% to physical violence and 10% to sexual violence. In spite of the limitations of this information, it is interesting to note that reports of sexual harassment were one tenth of cases.

In relation to **obstetric violence** we point out the difficulties at national and provincial levels for the State to effectively respond to the reports of obstetric violence. For instance, in Buenos Aires province the OVG received more than 70 reports of obstetric violence, but there are no sanctions to medical doctors.

In **public spaces** women also experience discriminatory, aggressive and/or violent conduct, such as verbal abuse, touching, harassment and rapes taking place in streets, parks and on means of transport. These behaviours occur every day, restricting women's autonomy and rights, in the form of a continuum of types of violence that acquires various expressions and is manifested in different spheres from private to public settings. These situations are generally neither recognized nor perceived as offences or crimes and are therefore not always reported, much less punished. They are frequently rendered invisible within perceptions and conceptions of insecurity that are aggravated by their treatment by the media and the promotion of repressive policies. The subjective perception of violence experienced and perceived as a definite threat exercises a restrictive effect on women's differential use and enjoyment of urban spaces and forms one of the biggest obstacles to their moving about freely and to the exercise of their rights. Women's mobility in their cities on public transport takes on particular importance in terms of restrictions of their rights and autonomy. This form of violence has hardly been explored by policies and research. One study conducted in the city of Córdoba found that 74.5% of the women who said that they had suffered behaviours that violated their physical intimacy, such as groping and being pressed against, reported that it mostly occurred on the bus.⁴² There are no statistics or official records to enable the dimensions of this problem to be gauged nationally.⁴³ Both the lack of specific regulation establishing appropriate procedures for reporting and eventually punishing these types of violence, and the non-inclusion of the gender perspective in urban planning policies and, in particular, in safety policies (despite advances in legislation) result in persistent obstacles to women's ability to live lives free from violence in their use of the public space. For this reason, it is essential to include women's voices, experiences and specific needs in urban planning, including routes and journeys throughout the city and neighbourhood and the use of public services.

6.e. Police state and gender violence. Within the universe of women's deaths by reason of gender there are cases of women murdered by police officers in an overlap that arises between institutional and domestic violence. Various social and cultural factors come into play together to enable and reproduce violent police practices towards women for reasons of gender. Between January 2010 and July 2016 the CELS database recorded 23 cases of femicide committed by police officers against their intimate partners in the City of Buenos Aires and Greater Buenos Aires. Of the victims, 16 were women civilians and seven were women police officers. They were all killed with a firearm and in several cases with the regulation weapon issued by the institution where they worked. This highlights the problem of the "police state", that is, the right of police officers to carry their regulation weapons 24 hours a day and to use them in any circumstances. The use of force by the police to resolve personal conflicts has a powerful impact on gender-based violence events in the homes of police officers, often culminating in the deaths of one or more people. The police state is, therefore, contrary to any public policy intended to reduce the numbers of deaths and injuries involving police officers, since it implies the possibility of discretionary and arbitrary action in its use.

Violence and gender discrimination within police forces is identified as a problem by the State bodies themselves at both national and provincial levels. The Ministry of National Security applies a restriction on the carrying and possession of firearms in cases where there are complaints of gender-based violence committed by an officer. Even so, cases leading to complaints only form part of the violent practices carried out in practice, in general due to shame and fear of reprisals. What is more, in a survey conducted by the same ministry, six out of ten women in the federal security forces said that they had suffered discrimination at work. These situations refer to promotion opportunities, lack of participation in areas or tasks, the improper use of informal sanctions, and abuse and sexual harassment. The types of violence that women most reported were unjustified changes in their shifts, discriminatory comments or jokes and constant threats about their professional situations. Almost always, these incidents were from higher ranking officers and they were rarely reported through normal channels. Slightly less than half of those who made a formal complaint said that they felt ignored by the institution or had been threatened by their superiors on account of the complaint.

In this respect, the State cover-up of cases of femicide by police officers is one of the main aspects. Several cases recorded by CELS show the aggressor trying to make it look like suicide by manipulating the crime scene and giving a false account of the facts. When this happens, it is very difficult for the justice system to break through the police version. In fact, there are very few cases that are fully investigated and even fewer where the perpetrator is convicted. These processes depend to a great extent on political factors that weaken the usual bureaucratic negligence that envelops such investigations. It is, therefore, necessary to strengthen a non-violent culture within the security forces and to foster their professionalization, breaking mechanisms for the State cover-up of gender-based violence and regulate the carrying of weapons.

⁴²Report on urban violence against women in the city of Córdoba produced by the Ombudsman. (2012) Cited in: Percepciones de los varones sobre el acoso Callejero hacia las mujeres. Ombudsman of the City of Córdoba. (2016).

⁴³There are only some partial, fragmented and local data collected by women's and feminist organizations concerned about the issue.

Suggested questions

- Is the budget for implementation of the NAP secure? How will resources (including any additional resources) be distributed to ensure implementation of all the lines of the NAP?
- How will resources and mechanisms be improved to increase the plural participation of civil society in relation to monitoring the NAP?
- What specific measures will the National Government adopt to ensure proper implementation of the NAP in coordination with the various jurisdictions and avoiding the overlap of efforts?
- What initiatives will be taken forward in the short and medium terms to produce the information needed (through both the application of periodic surveys and strengthening administrative record-keeping) so that progress can be measured on the obligation to prevent, punish and eradicate the various manifestations of violence against women?
- How is implementation of the Law that guarantees free legal representation for all the victims of gender-based violence being taken forward?

Suggested recommendations

- Carry out regular national surveys on the incidence and prevalence of violence against women.
- Ensure the resources are in place to guarantee access to public information, particularly access to budget information with the level of disaggregation needed to enable monitoring of the financial resources dedicated to the proper implementation of Law 26485.
- Generate statistics and information systems that incorporate the variable of place of birth to fully understand the magnitude of the problem and the extent of migrant women's access to justice, as well as promote strategies to build awareness and capacity in connection with the particular characteristics of migrant women on the part of judicial agents and response personnel in municipal social services, police stations and other institutions involved.
- The specific way in which violence against women affects indigenous women requires implementation of an intersectional approach in public policies towards indigenous women in order to be able to address the issue in all its dimensions. For this reason, the State should avoid standardized public policies and policies that reproduce "assistentialist" and paternalistic models towards indigenous women.

7. Trafficking in women and exploitation of prostitution

Nationally, there is a Programme under the responsibility of the Office for the Rescue and Support of Victims of Trafficking of the Ministry of Justice and Human Rights, made up of an interdisciplinary team of psychologists, social workers, political experts, doctors, lawyers and specialized police personnel who provide support for victims at the moment of rescue with a gender and human rights perspective. The Prosecutor Unit for Combating Trafficking in and Exploitation of Persons (PROTEX) of the Public Prosecutor Office had to assume part of this programme as the resources of the Office of the Ministry of Justice were insufficient given the magnitude of demand for rescues in the country. PROTEX-related reports received on the national telephone line 145 are an important input for gathering information and constructing statistical data on the crime map.

The National Trafficking Law 26364 of 2008 was reformed in 2012 as a result of complaints from civil society against the acquittal by a Federal Territorial Court of the province of Tucumán of the perpetrators of the forced disappearance of Marita Verón, the victim of a human trafficking network with strong ties to the security forces and political power. The new Law 26842, passed on December 19 2012 and enacted on December 26 2012 by Decree 2571/2012, is mainly concerned with the elimination of the consent of the victim for the crime to be established and with the creation of a number of agencies. The Act establishes the Federal Council for the Fight against Trafficking and Exploitation of Persons and for the Protection of and Assistance to Victims and the Executive Committee to Fight Trafficking and Exploitation of Persons and for the Protection of and Assistance to Victims, under the Chief of Staff and without its own budget. One of the main tasks assigned to it by the Act is the design of a national action programme. The National Plan that is to be created under National Law has yet to be created.

Information available on the investigation, prosecution and punishment of perpetrators of trafficking: PROTEX provides assistance to prosecutors' offices throughout the country on cases of human trafficking for labour and sexual exploitation. It monitors and checks on cases opened in the country and on trials and sentences, and establishes district prosecutors' offices. The PROTEX examines whether there are government officials involved in the crime in order to dismantle networks of impunity. In the last three years they prioritized intervention on cases where the accused were persons with access to power structures in order to be able to

prosecute the real and big winners from the exploitation of people: pimps, mayors, and police chiefs among others. 29 million pesos⁴⁴ in cash were found in the homes raided for trafficking throughout the country between 2013 and 2015, with 38 properties seized and two marine vessels on the list.⁴⁵

Number of women victims of exploitation and measures taken: Some officials, particularly at the provincial level, including police officers and mayors, are protecting brothels containing people who have been trafficked. As the OVG says, we note that the provinces and even municipalities making up the Federal State have not brought their laws into line with national and international standards.⁴⁶ Non-governmental organizations and officials complain that judges receive bribes from those responsible for trafficking and do not properly investigate evidence of official complicity. One government agency reported that 40% of cases of human trafficking for sexual exploitation had some form of police complicity, either through using sexual services or through personal contacts with brothel owners. According to PROTEX, there are 6040 cases of disappeared persons: 3231 are women. According to the Ministry of Justice and Human Rights, 10,256 victims were rescued from 2008 to June 2016, 48% of them from sexual exploitation.⁴⁷

Suggested questions

- Please provide information on when the Committees established by the Law will be set up to facilitate the participation of different bodies and sectors.
- Please provide information on how the Office for the Rescue and Support of Victims of Trafficking of the Ministry of Justice and Human Rights of the Nation is composed.
- Please provide information on the budget assigned to the Office for the Rescue and Support of Victims of Trafficking of the Ministry of Justice and Human Rights of the Nation.
- Please provide information on whether the Office has appropriate, sufficient and qualified staff to conduct the activities established by the Law.

Suggested recommendations

- To align provincial and municipal legislation to the standards established by national and international regulations.
- Ensure sufficient budgets for the agencies involved in the investigation of these crimes and victims' assistance, and promote coordination at federal level.

8. Participation in political and public life

The score card on gender equality in political participation is not entirely positive in Argentina. 25 years after approval of the quota, women have not managed to achieve, much less sustain over time, 30% representation in the **national legislatures** as established by the Women's Quota Law 24012 of 1991.⁴⁸ What was a floor for participation has become a ceiling. In terms of parliamentary agendas, it is recognized that with the progressive arrival of women into Congress, more issues related to gender have been addressed and passed, although sensitive subjects on the feminist agenda such as the legalization of abortion have still to be tackled by the legislature.

According to data gathered by ELA in the 2015 elections, of the 234 lists officially submitted to compete in the Primary, Open, Simultaneous and Mandatory Elections, 25 (more than 10%) of them did not comply with the provisions of the women's quota law. Organizations such as CLADEM filed legal complaints the electoral justice system for accepting lists that did not comply with the quota law.⁴⁹ In the general elections, the percentage of non-compliance fell significantly.

The Executive Branch: Women currently represent around 50% of the workforce employed by the central administration of the Executive Branch. Even so, at manager level, only 22% of positions are held by women. Of 21 national ministries, only three are held by women: Security, Social Development, and Foreign Affairs and Faith Matters. Of the 24 Argentine provinces, 5 (20.83%) of them are

⁴⁴ Translator's note: 1,916,770 USD approximately as of 08 October 2016

⁴⁵ Analysis of complaints received through hotline 145. May 2016 <http://www.mpf.gov.ar/protex/files/2016/06/Protex-Informe-L%C3%ADnea-145.pdf>

⁴⁶ Both provincial law on misdemeanours and the persistence of some municipal ordinances are incompatible with national law. These include the municipal ordinances that permit the establishment of places where women and girls are sexually exploited, because the last amendment to the law on human trafficking that amended the Penal Code prohibits any form of facilitation and/or promotion of sexual exploitation of persons. In the Buenos Aires code on misdemeanours traffic in "hostesses" is punishable by fine under article 66 b. (The "hostesses", "alternadoras" in Spanish, are women who are employed in night clubs, pools and cabarets with the job of accompanying clients while they are on the premises, that is, a type of human trafficking according the Law). This is a situation that would nationally fall into person trafficking for sexual exploitation, punished by deprivation of liberty. At municipal level, ordinances allow such places to exist.

⁴⁷ www.infobae.com>2016/03/16 "Los numeros de la explotacion sexual en Argentina"

⁴⁸ http://www.cnm.gov.ar/legNac/Ley24012_decreto1246.pdf

⁴⁹ Núñez Lorena Del Valle S/ Superior Gobierno De La Provincia De Tucumán – Junta Electoral Provincial -S/ Recurso S/Amparo " Case No. 676/13

governed by women. In turn, for the first time, there is a woman heading the executive government of the province of Buenos Aires, the most populous province with the biggest budget and the biggest contributor to national GDP. Of 19 ministries in this province, just one is headed by a woman. Furthermore, this province consists of 135 districts, of which only 4 have women municipal mayors.

The Judiciary Branch: In 2016 the Supreme Court of Justice of the Nation (CSJN) was completed after filling two vacancies. Despite internal regulation and strong demands from different organizations,⁵⁰ the positions were taken up by two men, leaving four men and one woman in post.⁵¹ The Women's Office of the Supreme Court of Justice of the Nation has been producing a gender map every year since 2009. Data for 2015⁵² shows that at the federal and national judiciaries, there is a majority of women. Nonetheless, a reduction in the proportion of women was observed the higher up the hierarchy one went, from the roles of judge where women's representation falls to 37.5% to that of the role of chamber judge, where there are only 25% women.

Campaign for parity: Women members of parliament and women national leaders of every party block in the National Congress are working together to incorporate parity into the Electoral Reform that the National Executive Power (PEN) has sent to Congress, in addition to the number of bills on parity introduced in recent years. The women's movement is supporting and promoting a campaign called "Women into Politics".⁵³ The Senate of the province of Buenos Aires unanimously approved the gender parity bill for elective office, while this is still pending debate in the Lower House. Multi-sectoral and multi-party alliances are also being promoted in various provinces to promote debate and introduce parity bills into their legislatures.⁵⁴

Trade unions: Law 25674 of 2002⁵⁵ establishes a "female union quota" that has had almost zero compliance. The participation of women in unions is much lower than it would be if it matched women's participation in the labour market. Average participation in Argentina is less than 10%.⁵⁶ Research conducted in 2015 by the Institute of Women of the General Confederation of Labour (CGT) showed that of a total of 1448 union posts, only 80 were occupied by women. Of these, 61 were spokespersons or auditors. In 25 unions women had no representation.

There are still many obstacles to women's political participation: Among the most important, we point the lack of distribution of caring tasks between women and men; the socio-economic divide between men and women, especially in indigenous groups and other disadvantaged populations; discrimination and violence against women engaged in politics; the patriarchal structures of political parties; the low renewal and rotation of political cadres, nepotism and clientelism in the drawing up of electoral lists. The diverse and complex provincial electoral systems, such as double simultaneous voting (*Ley de Lemas* in Spanish) and Collector or Coupled Lists (*Listas colectoras o de acoples* in Spanish) form another obstacle to women's participation in elected office.

Suggested questions

- Please provide information on the status of debate in Congress on bills on the establishment of gender parity in electoral lists.
- Please state what specific measures there are to advance the presentation of women as candidates for positions in public bodies, including support to finance their campaigns, the provision of technical advice, and specific training on public policy and governance.
- Please provide information on actions taken to prevent harassment of and violence against women in public office.

Suggested recommendations

- Adopt public policies for the fair distribution of caring tasks and expanding public infrastructure for the provision of care.
- Promote discussion of political parity in the legislatures of different jurisdictions, including at national level.
- Promote changes in the structure and rules of political parties to foster conditions for the fair participation of women.
- Adopt rules to ensure the transparent and public financing of campaigns and political parties with gender equity criteria.

9. Education

⁵⁰For example, see the challenges made by different organizations: http://www.feim.org.ar/pdf/impugnacion_Rosatti_Rosenkrantz.pdf and more information at: <http://agencia.farco.org.ar/noticias/organizaciones-de-mujeres-reclaman-que-una-de-las-dos-vacantes-de-la-corte-suprema-sea-para-una-mujer/>; <http://www.lanacion.com.ar/1873628-el-frente-renovador-lanza-campana-de-firmas-para-sumar-mujeres-en-la-corte>;

⁵¹Judge Highton de Nolasco will be soon on the retirement age limit.

⁵²http://www.csjn.gov.ar/om/mapa_genero/mgja2015.pdf

⁵³Campaign organized by Amnesty International and the Latin American Justice and Gender Team (ELA).

⁵⁴E.g. the alliance led by CLADEM Argentina in Tucumán province.

⁵⁵<http://www.trabajo.gba.gov.ar/informacion/genero/legislacion/ley25674.pdf>

⁵⁶See <http://www.cepal.org/mujer/noticias/paginas/6/38906/UNIFEM.pdf>

Although in recent years the national education system has reached an important place on the national public and political agenda, which has translated into an expansion of state funding, bringing significant progress in infrastructure, reduced illiteracy rates, increased enrolment at every phase of education, increased provision of educational equipment and significant progress in science and technology, there are still inequalities among provinces and between urban and rural areas. Difficulties also persist with high drop-out rates; lack of fit between the educational system and the world of work; and a spurious relationship between education level and jobs, roles and salaries in the workplace. There is a large group of teenagers and young people who neither study nor work, composed of more than 1,200,000 people, 70% of whom are female. A majority of girls and adolescents who drop out of school do so before or after having a child. Early pregnancy is a frequent reason for school drops out by girls. The Universal Allocation per Child with education provision has contributed to increasing enrolment, especially in the most geographically and economically disadvantaged areas.

In general terms, education data disaggregated by province and gender continue to show that the poorest provinces (Chaco, Corrientes, Misiones, Santiago del Estero, and Formosa) have the highest indices of illiteracy and lack of educational infrastructure, etc. As for illiteracy, the relative gender parity between men and women at national level (1.9%) is doubled in the poorest provinces to the detriment of girls.⁵⁷

It is a cause for concern that official Finance Ministry data show that the areas intended to improve learning conditions are the most neglected. In the periodic report on "Education budget, adjustment and underspending", the Marina Vilte Institute of the Confederation of Education Workers (Ctera) warned in early September that the "redefinition of policies" is taking place through the dismantling of technical teams, massive lay-offs and the closure of major plans and programmes that were under way, such as the Completion of Secondary Education Plan (abbreviated to "Plan Fines" in Spanish) and the National Comprehensive Sex Education Plan (ESI in Spanish), as well as discontinuing educational infrastructure works and the purchase and free distribution of millions of books to every school in the country."⁵⁸

Suggested questions

- Law 26075 of Educational Funding establishes 6% of GDP for financing the education system. What percentage of GDP for next and subsequent years is projected to be dedicated to education to maintain and improve the educational levels of the population, especially women?
- Please provide information on what measures are being implemented or will be implemented in future years to reduce the education gap between men and women (illiteracy, access, retention, graduation) that is increasing to the detriment of women in the poorest provinces.
- As it is the poor, rural areas where the greatest educational inequity and inequality are concentrated, that is then transferred to girls, what plans or programmes are you implementing or are going to implement to reduce the education gap in rural areas?
- Please indicate what measures are being implemented to reduce the gender technology gap by province. Please provide information on the status of implementation and budget for the National Connect Equality Programme.
- Please indicate how the State is intervening to eradicate gender stereotypes from the education system.
- Please provide information on the implementation status of the Comprehensive Sexuality Education Act and funding for its programme.

Suggested recommendations

- Ensure implementation and funding for the Comprehensive Sexuality Education Programme in every jurisdiction of the country.
- Ensure budget implementation for education at federal and provincial levels.

10. Work and employment

The dynamics of the labour market have been widely studied in Argentina: the data show that women's participation has significantly increased in recent decades, in line with the trend in Latin America. This increase, which towards the end of the 90s was underpinned by unemployment, was based on access to employment and, to a great extent, to registered employment after the recovery from the 2001-2002 crisis. Nevertheless, participation is still lower than that of men and, moreover, various indicators on the quality of employment and the outcomes in terms of economic empowerment show that women are disadvantaged. According to data from 2014, 55.9% of women were in the paid workforce (against 80.2% of men) and 8.6% were unemployed (against 6.6% of men). 36.3% of women were working in informal employment (against 32.2% of men). Women's participation in industrial employment remains low, while the process of change towards knowledge and technology-based lines of work is still an incipient trend and remains a long-term

⁵⁷ Sverdlick & Austral, 2013

⁵⁸ Nora Veiras, "Macrihace escuela con el ajuste". Available at: <http://www.pagina12.com.ar/diario/elpais/1-310788-2016-10-02.html>, e-published 2 October 2016

matter for women. Furthermore, beyond the increase in participation rates, the service sector and unregulated activities continue to be the areas where female employment is concentrated.

This information is based on classic labour market indicators. But from a comprehensive conception of work, that is, including both paid and unpaid work (caring), strong gender disparities are observed. Indeed, the 2003 INDEC survey on unpaid work and time use⁵⁹ shows that while women dedicate an average of 41.3 hours per week to unpaid work and caring tasks, men only spend 24.5. Adding paid and unpaid work hours comes to 74.4 hours per week for women and 68.3 for men. In homes with children aged under 5, the time spent by mothers on caring exceeds that of fathers by 34 hours a week.

This asymmetric division of responsibility for caring for others impacts not only on the welfare of working women and their full insertion in the labour market on equal terms with men, but also on conditions for caring for girls, boys and the elderly. One of the most used strategies by families to resolve the issue of care for sons and daughters are educational services for boys and girls. Coverage varies by age and jurisdiction: it is almost universal between the ages of 5 and 12 years and it is relatively adequate for 4 year-olds, probably due to coverage being compulsory for these ages, albeit somewhat uneven, especially in the less advantaged areas. Coverage drops substantially, however, in early years (0 to 3 years) and the lack is particularly serious for those aged 0 to 2 years. In Argentina fewer than 4% of boys and girls aged under 2 attend an educational establishment. In CABA, this figure rises to 13.9%, since the local Constitution establishes a right to education from the age of 45 days.

With regard to women's labour participation and quality of employment, there are also substantial intra-gender differences. Women with lower educational levels, from lower income households, with small children without access to childcare, and older women, are more likely to take part in informal paid work, in low productivity self-employment or to be economically inactive. While the restrictions mentioned have a strong impact on women's access to and performance in the labour market, studies indicate that the main obstacle to equal opportunities and conditions in this field are extrinsic to women. Rather the roots of this inequality lie in the discrimination shown by companies and the absence or inadequacy of regulation or policies.⁶⁰ One example of this is the lack of universal access to early education and public and private childcare, that overburden the workload of women, the main caregivers, and the fragmentation of social programmes entrenches inequalities, especially among the most vulnerable families. It is essential to review the way in which the world of work makes it possible to conduct caring responsibilities, for both women and men.

Currently, the few labour regulations in force guarantee certain benefits for working mothers (such as maternity leave, reduced hours for breast-feeding, and provision of care spaces such as day cares in the workplace), but these rights are not the same for men (thus worsening gender stereotypes that negatively affect women in the world of work) or for women in different work situations. There are important differences between the regulations in force in different jurisdictions (by province and even by municipality) and between employers, be this because women are employed under different regulatory regimes of public or private employment or because they are independent workers under the *monotributo* (single tax) scheme.⁶¹ Therefore, it is an absolute must to review the regulations on extending parental leave for mothers and fathers, which are currently behind most of the countries of the region and the ILO recommendations, despite many bills presented to Congress that are awaiting to be taken forward. Some collective agreements by industry are just starting to recognize extensions to paternal leave, on occasions using explicit arguments that invoke co-responsibility. Employment regulations have also started to be aligned with rights derived from recognition of marriage on an equal basis and of gender identity. Even so, this process has not been completed with regard to every employment regime and it is not uniform in every jurisdiction.

Furthermore, the policies coming from the Ministry of Labour, Employment and Social Security aimed at promoting employment during the period under evaluation do not explicitly have a gender perspective, in spite of which a positive impact on women is being observed. Nonetheless, the National Plan for the Regularization of Work had benefited more men than women up to 2013 in spite of there being proportionally more women than men in the informal sector. On the other hand, it is a concern that the main targets of social policies for income generation coming from the Ministry of Social Development, such as the "*Ellas Hacen*" programme, should be women. These differences bring with them the risk of strengthening gender stereotypes, designing labour policies for men and social (welfare) policies for women.⁶²

Furthermore, income transfers such as the Universal Allocation per Child accentuate motherhood as they are channelled through mothers and in exchange for co-responsibilities which they are responsible for fulfilling.

⁵⁹INDEC, Encuesta Anual de Hogares Urbanos (2013).

⁶⁰Sanchís, Norma y Noemí Katzkowicz (2014), ¿Frenos al empoderamiento económico?: Factores que limitan la inserción laboral y la calidad del empleo de las mujeres. CIEDUR – IDRC, www.asociacionlolamora.org.ar

⁶¹Rodríguez Enríquez, Corina and Laura Pautassi (2014) *La organización social del cuidado de niños y niñas. Elementos para la construcción de una agenda de cuidados en Argentina*, ELA, Buenos Aires.

⁶²Foti, Pilar and Norma Sanchís (2014). *Relevamiento de políticas y legislación para la inserción laboral y el empoderamiento económico de las mujeres en Argentina*. CIEDUR – IDRC, www.asociacionlolamora.org.ar

It should also be noted that the Pension Inclusion Plan, which gave coverage to 97% of the population and which mainly benefited the female population, enabling 1.5 million women to join the pensions system, is running the risk of being replaced by a policy that once again segments the system by benefiting those in formal employment with retirement and those in informal or unpaid work (mostly women) with an old age pension.

In relation to Law 26844 of 2013 on the rights of those working in private houses (formerly: "domestic service") that gives compliance with ILO Convention 189, its implementation made an impact in 2013 and 2014 with a significant increase in labour registration. While the informal employment rate is still noticeably higher than the overall average of employees, in the fourth quarter of 2014 the rate of women working in private homes in unregistered employment was the lowest in recent decades (74%).⁶³

Suggested questions

- Please provide information on interventions by policies intended to attack the persistent structural barriers that women encounter in the world of work, avoiding their segregation into precarious areas of income generation and the maternalization of social policy.
- Please provide information on the measures adopted by the State to promote social co-responsibility for the care of dependent persons, mainly very young children, and recognition of unpaid care work performed by women in the family setting.
- Please provide information on actions aimed at promoting non-discriminatory policies towards women by public and private companies.
- Please provide information on communications campaigns targeted at male and female employers and workers in private homes to promote registration and regularization of employment conditions in this sector.
- Please provide information on measures to avoid segmentation of the Pensions Plan and the restriction of access by women (including those working in the informal sector and as housewives) to full retirement benefits.

Suggested recommendations

- Review and improve the information capture module on unpaid work that has already been applied by the Annual Urban Household Survey (EAHU in Spanish), establishing a regular national time use survey.
- Generate systematic information about the scope, coverage, cost and effective operation of care measures and actions across the country.
- Amend employment regulations to incorporate provisions on the right to provide care throughout one's lifetime and not merely linked to the moment of birth and/or adoption.
- Reform employment regulations to amend the maternalist bias that characterizes them.
- Promote the expansion of paternal and parental leave.
- Encourage companies and trade unions to include the issue of care in collective bargaining spaces and to advance the consolidation of specific practices, such as flexible working time, phased return after periods of leave and teleworking.
- Design programmes to promote the employability of women with the greatest difficulties in finding employment and performing in the labour market.
- Integrate regulation of the right to care into the Employment Contract Act and labour regulations in universal public policies.
- Promote full implementation of Law 26844 of Domestic Work and organize publicity about it and its benefits.
- Promote a national care system that offers a wide range of options for different family and personal situations.
- Design and implement policies to achieve work/life balance, such as by promoting the expansion of paternal leave and the incorporation of parental leave (to allow care for longer than the period of birth or adoption), available on equal terms to men and women.

11. Health

*On the situation of abortion in Argentina, we refer to the specific report on this issue that will be presented during this session.

Teenage pregnancy Approximately 16% of all the births in Argentina are to mothers aged under 20 years, equating to 300 births per day. 69% of these pregnancies are unplanned (SIP 2000) and in general terms they occur because teenagers of both genders do not know how to use contraception, do not understand their own bodies and still believe in false myths about sexuality.⁶⁴ Unplanned

⁶³Mazorra, Ximena, Lila Schachtel and Daniel Contartese (2015), *Trabajadoras en casas particulares, inclusión y formalización*. Mimeo

⁶⁴UNFPA - Data on teenage pregnancy in Argentina, 2015

pregnancy in adolescence affects the continuity of the mothers' education and requires joining the job market at an early age, in a precarious way.⁶⁵ We provide further information in the annex on the situation of girls aged under 15 years who undergo forced child pregnancy and childbirth.

While Comprehensive Sexuality Education has been law (26150) since 2006, its implementation is unsatisfactory. Provinces like Corrientes and Salta are still not implementing it: Corrientes declared itself a "Pro-Life Province" in 2015 and Salta approved a provincial law for compulsory religious education. There was no political agreement in the Federal Board of Education for provinces to comply with national law. During the second half of 2016, dismissals from the Programme created by the Law were denounced, as were the lack of funding and support for duties under it.⁶⁶

Teenagers are not sufficiently cared for in public health services and the mass campaigns to promote the right to decide free from coercion and violence are inadequate. Those living far from urban centres have greater difficulties in accessing sexual and reproductive health services (SRHS). Minority groups do not have adequate SRHS.

Members of the LGTTTBQI community meet difficulties in accessing SRHS, which become apparent in the face of the presumption of heterosexuality in health services, the lack of knowledge and availability of methods of preventing HIV and STIs in relationships between women and of services to comprehensively meet the needs of and advise trans people.⁶⁷ Specific needs involve assistance in freely choosing one's gender identity, including interventions to transition the body.⁶⁸ Indigenous women encounter difficulties in securing SRHS for socio-cultural reasons that include language. In general, the health system does not tend to take into account communities' own cultural practices and representations.⁶⁹ There is no appropriate access to SRHS for disabled women. There is no structure and no trained staff to meet their specific needs and what is more, there is a lot of prejudice and discrimination. Migrant women also face obstacles, often related to communication with health workers.

The National Sexual Health and Responsible Procreation Programme (PNSSyPR) has been in operation since 2003 and every month it directly supplies each public health centre with contraceptive methods that are distributed free of charge. After 13 years of PNSSyPR implementation, only half of women using contraception receive contraceptive supplies free of charge. Even the population served exclusively by the public sector does not receive the access it should.⁷⁰ Most people are unaware that they are entitled to contraception or know they have the right but do not know where to exercise it. The reasons for this low coverage should be studied and analysed, and urgently overcome. Disadvantaged groups of women face even more limited access to contraception.

Women living with HIV (WLWH) experience difficulties in accessing SRHS, because of ignorance of the dual protection that many of them seek and the use of condoms solely for contraception. When they want to have children, they do not receive sufficient advice, support and assistance from the health professionals. Health workers lack training and awareness. Given the fact that women who are most affected by the epidemic, WLWHs in Argentina have increased in number and face difficulty accessing comprehensive health care. While antiretroviral medication is available, it still does not reach many of the women who need it. Many women are not aware of their condition and those who have been diagnosed have difficulties meeting basic needs such as food, housing, work, and psychological and medical care without stigma or discrimination. Comprehensive care for WLWH, appropriate and correct SRHS, and comprehensive support must be guaranteed for those experiencing violence, those deprived of liberty, and drug or substance users living with HIV, as part of the elimination of stigma and discrimination.⁷¹ Prevention of vertical transmission has improved, but it needs to be further reduced and to do this there should be guaranteed access to partner testing for pregnant women and both should be treated.

Risk factors for non-communicable diseases (NCDs) and their consequences for women's health in Argentina

⁶⁵FEIM and UNICEF present a no-pregnancy test for teenagers, 2015 See <http://feim.org.ar/2015/09/15/feim-y-unicef-presentan-un-test-de-no-embarazo-para-adolescentes/>; http://www.clarin.com/opinion/Madres_adolescentes-Educacion_sexual-Planificacion_familiar_0_1433856684.html; <http://opinion.infobae.com/mabel-bianco/2015/09/19/que-es-el-test-del-no-embarazo/>.

⁶⁶See more at <http://www.pagina12.com.ar/diario/suplementos/las12/13-10702-2016-07-08.html>

⁶⁷*Informe Cairo +20*, Alianza de Organizaciones SC, Argentina 2014.

⁶⁸<http://saludtrans.cl/2013/07/23/creanguia-interamericana-sobre-salud-de-las-personas-trans>

⁶⁹UNGASS – Monitoreo de los compromisos asumidos frente al sida en salud sexual y reproductiva: "Sociedad Civil Luchando por Derechos" – Informe Argentina 2010.

⁷⁰Bianco, M; Sonis, A and Checa, S: "La Atención y costo de la salud sexual y reproductiva en Argentina", Dic. 2015 <http://feim.org.ar/2015/12/27/atención-y-coste-de-la-salud-sexual-y-reproductiva-en-argentina/>

⁷¹FEIM/ Gestos VIH y Violencia contra mujeres y niñas, Informe Argentina 2014

The risk factors constituting the main causes of NCDs are smoking, malnutrition, physical inactivity, excessive weight and problematic alcohol consumption. These are all changeable and avoidable factors that lead to cardiovascular diseases, cancer, diabetes and respiratory diseases, with a greater impact on the most vulnerable social groups including, women and girls.

Tobacco: The smoking epidemic in Argentina remains the leading cause of premature and preventable death in the country. 11,731 women per year die of smoking-related illnesses in Argentina each year.⁷² One in three women die of cardiovascular disease (since 1980, their proportion has exceeded that of men) and are twice that of all deaths from malignant tumours.⁷³ Lung cancer has doubled in Argentine women. While lung cancer deaths in men fell by 2% per year from 1980, they increased in women by 1.7% per year as a consequence of the increase in the consumption of tobacco, one of the highest female rates in the Americas.⁷⁴ While this Committee urged the Government to ratify and implement the WHO Framework Convention on Tobacco Control (FCTC),⁷⁵ Argentina remains the only country of South America not to have done so. Tobacco consumption is greater in teenage women than men, demonstrating a worldwide trend towards the feminization of the epidemic.⁷⁶ Although the national law on the control of tobacco (26687/2011) has been passed,⁷⁷ this does not meet standards on restrictions on marketing, it includes inadequate fiscal measures to reduce access to tobacco and the implementation of the law is poor.

Obesity/ malnutrition/ physical inactivity: Excessive weight and obesity have increase in recent years in girls and women, especially in lower socio-economic level groups. Physical inactivity is also greater in girls and women than in boys and men. In the Third Annual Survey of Risk Factors, conducted in 2013 by the Ministry of Health of the Argentine Nation, it was observed that women recorded a higher prevalence of low physical activity (57.4%) in comparison with men (51.8%).⁷⁸ Although the National State passed Law 26396 on eating disorders in 2008,⁷⁹ it does not meet international standards nor has it been regulated.⁸⁰⁸¹ There are no measures to guarantee the right to adequate nutrition and prevent obesity in girls and women or National Government policies with a gender perspective to promote active lifestyles and reduced physical inactivity in girls and women.

Alcohol: Women are more vulnerable to the harm related to alcohol consumption since the same amount of alcohol consumed causes greater harm, particularly cancer, gastrointestinal and cardiovascular diseases. In addition, they are exposed to the harm derived by men's consumption, such as interpersonal violence. National studies on the consumption of psychoactive substances in secondary school students conducted between 2009 and 2014 by SEDRONAR, the Argentinean Drugs Observatory, found that girls and female teenagers are consuming more and more alcohol (in 2009, the prevalence per month for males was 47.9% and for females it was 45.8%, while in 2014 the figures had become 50.5% and 49.7% respectively).⁸² In Argentina, the only law regulating alcohol consumption is Law 24788 of 1997,⁸³ which does not meet international standards.⁸⁴

⁷²Carga de Enfermedad Atribuible al tabaquismo en Argentina. Instituto de Efectividad Clínica y Sanitaria. (IECS). July 2013. <http://www.iecs.org.ar/wp-content/uploads/N7Carga-de-Enfermedad-Tabac-Argentina.pdf>

⁷³Liprandi, Harwicz, Causas de muerte en la mujer y sutendencia en los últimos 23 años en la Argentina Rev. Argent. Cardiol. v.74 n.4 Buenos Aires July 2006

⁷⁴Schargrodsky H et al. CARMELA: assessment of cardiovascular risk in seven Latin American cities. Am J Med. 2008 Jan; 121(1): 58-66

⁷⁵World Health Organization Framework Convention on Tobacco Control (FCTC) (Spanish version) available at: <http://apps.who.int/iris/bitstream/10665/42813/1/9243591010.pdf>

⁷⁶Dick B, Ferguson BJ. Health for the World's Adolescents: A Second Chance in the Second Decade. Journal of Adolescent Health. 2015.

⁷⁷Text of law available at: http://www.msal.gov.ar/images/stories/bes/graficos/0000000658cnt-2011-11_Ley-Nacional-Control-Tabaco_ley-26687.pdf

⁷⁸Tercera Encuesta Nacional de Factores de Riesgo, Ministerio de Salud de la Nación, 2013, Available at: http://www.msal.gov.ar/images/stories/bes/graficos/0000000544cnt-2015_09_04_encuesta_nacional_factores_riesgo.pdf

⁷⁹Text available at: <http://infoleg.mecon.gov.ar/infolegInternet/anexos/140000-144999/144033/norma.htm>

⁸⁰Plan de Acción para reducir la obesidad infantil de la Organización Panamericana de la Salud. 2014

Plan de Acción Global para reducir las Enfermedades no Transmisibles 2013-2020 de la Organización Mundial de la Salud. 2013

⁸¹Report of the Commission on Ending Childhood Obesity. World Health Organization. 2015. Available at: http://apps.who.int/iris/bitstream/10665/204176/1/9789241510066_eng.pdf?ua=1. Accessed February 2016.

⁸²SEDRONAR 2014

⁸³Text available at: <http://infoleg.mecon.gov.ar/infolegInternet/anexos/40000-44999/42480/norma.htm>

⁸⁴World Health Organization. Estrategia mundial para reducir el uso nocivo del alcohol. 2010.

Pan American Health Organization. Alcohol y salud pública en las Américas: un caso para la acción. 2007. World Health Organization. Reporte global del estado de alcohol y salud. 2014. http://www.who.int/substance_abuse/publications/global_alcohol_report/en/

Suggested questions

- Please provide information on the status of the "Protocol for the Comprehensive Care of Persons with the Right to the Legal Interruption of Pregnancy" developed by the Ministry of Health in 2015.
- Please provide information on the budget assigned to the National Sexual Health and Responsible Procreation Programme and on its execution.
- Please provide information on the extent to which actions provided in the NAP against Violence under the responsibility of the CNM are coordinated with the Ministry of Health at federal and province level.

Suggested recommendations

- Ensure access to contraception, especially for female and male teenagers and vulnerable populations: Indigenous and Afro-descendant people, migrants, people living with disabilities and members of the LGBTTTQI community.
- Implement training for all teachers and make all necessary political agreements in every province to ensure comprehensive sex education in every school and level as soon as possible.
- Approve by resolution of the Ministry of Health of the Nation the "Protocol for the Comprehensive Care of Persons with the Right to the Legal Interruption of Pregnancy", developed by that Ministry and promote its application throughout the country through agreement in the Federal Health Council.
- Promote debate in Congress of the law for legal, safe and free abortion at the discretion of the woman during the first trimester of pregnancy.
- Ensure the recording of teenage pregnancies, early teenage pregnancy (aged under 15) and including the number of abortions performed on girls of that age.
- Design public policies to guarantee the right of girls, boys and adolescents to health information and services to decide on teenage motherhood or fatherhood in a way that is informed, free and without violence or coercion, putting an end to forced child pregnancy and childbirth.
- Ratify the World Health Organization Framework Convention on Tobacco Control signed by the National Executive Power in 2003.
- Issue the regulation for the food disorders law, No. 23396, to promote its effective implementation.
- Take measures to restrict the marketing of unhealthy foods as an effective measure to prevent obesity in girls.
- Amend Law 24788 on the control of alcoholism to bring it into line with international standards, including the adoption of measures for restricting the marketing of alcoholic beverages.

13. Groups of disadvantaged women

Migrant women: Of the 1,805, 957 migrants living in Argentina, 974,261 are women. Their situation varies depending on their community, race/ethnicity, age and social class. Migrant women in Argentina are restricted to working in typically female sectors subject to exploitation and irregular labour conditions. Since their post-secondary or university qualifications are not recognized many end up giving up their career path in order to survive. Also, access to justice to claim their employment rights is a difficult process and not everyone finds support for their claims, due to judicial officers' prejudice against the migrant population. Migration policy has been refocused in Argentina since 2016, centring on the control and criminalization of migration. One barrier that women experience when trying to regularize their migration is the lack of recognition of the category of self-employed worker as a legitimate criterion for residence.

One particular group that merits special attention is the Dominican population residing in Argentina, since 75% of the 20,000 people in this group are women. Entry barriers have become more costly and journeys more dangerous. Since entry via irregular channels increases, the possibility of regularization becomes all the more difficult, which tends to leave Dominican migrant women with no judicial protection and greater exposure to labour exploitation. While 2,200 Dominicans were accepted under the Special Immigration Regularization Plan implemented in 2013, it is unlikely that selective special treatment schemes and schemes providing short term temporary residency will bring long term, fair solutions. In this context there is a need to develop reasonable, affordable and sustainable criteria to enable residency through the self-employed worker route, which is the most frequent mode of work for this group.⁸⁵

A matter of concern is the rendering invisible of migrants' status in legal processes, leading to real disadvantages in accessing justice, especially for those who come in contact with the criminal justice system. In particular, the lack of family links in the place of residence

Pan American Health Organization. Reporte regional del estado de alcohol y salud en lasAméricas. 2015.

⁸⁵This section is based on the report "La Migración Dominicana en Argentina. Trayectorias en el Nuevo Siglo (2000-2015)" by CAREF and IOM Argentina, Buenos Aires, December 2015.

produce contexts of isolation that foster situations of violence against migrant women. Factors like the way in which partner relationships are formed, frequently on a basis of unequal power relations, and a social and legal environment that insufficiently sanctions gender-based violence, are relevant considerations when investigating cases that involve migrant women for the commission of crimes linked, for example to their children.⁸⁶

Maritza Bejarano migrated to Argentina from Bolivia with her former partner and son aged 14 months. Whenever her former partner left the home he locked her in and he did not let her do groceries or handle money. "He didn't want me to go out. It was always him who went to the shop."⁸⁷ In this context, violence was committed against her and the child, who was admitted to the La Plata children's hospital with serious injuries. Doctors at the hospital convened the social work team to interview the father and mother. At trial the context of violence against Maritza and the child came to light as did the coercion and domination that she suffered. In spite of this, Maritza was sentenced to 10 years' imprisonment for the crime of attempted aggravated homicide of a family member. A majority of the judges found her guilty for not having prevented her son from suffering the father's assaults.

Women deprived of liberty. In Argentina, there are at least 3125 women deprived of liberty,⁸⁸ the highest number in the history of the country. In the last 15 years the number of women prisoners has increased by 32%. This trend is more pronounced in the province of Buenos Aires, where between 2002 and 2016 the number of women in prisons increased by 90%.⁸⁹

Information provided by the Government⁹⁰ only refers to women detained in the federal prison system. This omission is symptomatic of the invisible nature of the situation at national level: there are no reliable records to determine the total universe of women and trans women in contact with the criminal justice system. For example, there are no official records of the number and situation of women under alternative measures of detention.

Across the country, criminal policy has focused on prosecuting the most vulnerable sectors of the drug-trafficking chain. This definition has contributed to the criminalization of women and increasing rates of imprisonment. It is estimated that more than half of the women deprived of liberty in the country are imprisoned for breach of Law 23737.⁹¹ The defederalization of this law⁹² in Buenos Aires, Córdoba and Salta led to an over-representation of women imprisoned for this offence in the correctional services of these provinces.⁹³

Imprisonment has a differential effect on women and the Argentine State takes no account of the specific needs of this group. This is demonstrated by the lack of adequate health programmes, persistent violent practices abuse, torture and use of stereotypes to which imprisoned women are subjected, among other issues. This differential effect is especially harmful due to the impact of a woman's incarceration on her family networks and particularly on the situation of her children. Despite the recently published NAP mentioning this group and recognizing that they experience various forms of violence in prison, it presents no concrete measures.

Most imprisoned women are mothers and heads of households. Their incarceration and the lack of public policies have irreversible consequences for the family group and, in particular, for their children's life paths. Children are sometimes placed for adoption or placed in institutions because they are not recorded as the children of detainees. There are no institutional arrangements to enable monitoring of this situation, and no social or psychological support for the girls and boys who spend their childhoods in contact with the

⁸⁶Observatorio de Violencia de Género de la Defensoría del Pueblo (OVG) Informe 2015 "Monitoreo de políticas públicas y violencia de género" <https://www.defensorba.org.ar/publicaciones/informe-ovg-2014-2015/download/Informe-Anual-OVG-2014-2015-Monitoreo-de-Politicas-Publicas-y-Violencia-de-Genero.pdf>

⁸⁷Case 9635 Buenos Aires Province Ombudsman's Observatory of Gender-based Violence.

⁸⁸Authors' data compiled on the basis of data from the Ministry of Justice National Sentence Enforcement Statistics System and the number of women with electronic tags in the Buenos Aires prison service.

⁸⁹Numbers went from 630 to 1198 women in prison establishments, according to reports from the Ministry of Justice of the province of Buenos Aires.

⁹⁰Sistema Nacional de Estadísticas de Ejecución de la Pena (National Sentence Enforcement Statistics System) (SNEEP)

⁹¹SNEEP data updated to 2014.

⁹²Law 26052, defederalizing Law 23737, was implemented in the province of Buenos Aires in 2005 (Provincial Law 13392, in force from 2/12/2005), in the province of Córdoba in 2012 (Provincial Law 10067, in force from 1/12/2012) and in the province of Salta in 2014 (Provincial Law 7782, in force from 1/1/2014).

⁹³Of the total women in the prisons of the province of Buenos Aires, 29% are incarcerated for breach of Law 23737, whereas 8% of the total prison population are imprisoned for this crime. In Salta, the number of women imprisoned in the Salta provincial prison system for breach of Law 23737 moved in the space of just one year from 10 (2013) to 94 (2014), starting from the defederalization of Law 23737 in January 2014 and the launch of the "Drugs Courts Pilot Programme" in two provincial courts in October 2013.

criminal justice system. Due to the lack of official records, the absolute number of boys and girls affected and the percentage of women prisoners with children are unknown.⁹⁴

Obstacles also remain to alternatives to prison and to measures that moderate sentences for women who are mothers, pregnant or trans, due to the lack of coordination between the judiciary and executive branches of government. The technical requirements that mediate access to house arrest or moderation of a sentence place people with low socio-economic resources at a clear disadvantage compared to those with greater financial resources or family networks.⁹⁵ Once under house arrest, women are left without the protection of the State. There are no institutional provisions for food, goods needed for basic survival, access to educational or work activities, psychological support or help with family ties. While the Government report refers to under-occupation of federal prisons, it announced the construction of new women's prisons. This policy focus will have negative consequences for the rights of women prisoners and their families.

In the province of Tucumán, the *Health Programme in Contexts of Confinement* does not have the resources it needs, leading to major delays in the public system. One of the prisoners has been waiting since the beginning of the year for delivery of her prescription glasses; until she receives them she cannot attend elementary school. One of the common strategies used by women deprived of liberty to gain quicker access is to cause emergency situations (such as swallowing harmful objects), putting their health at real risk.

In the province of Buenos Aires, administration of the health service for women prisoners is under the responsibility of the health area of the prison service, rather than the Ministry of Health. In practice, the lack of coordination between these bodies segregates women prisoners away from access to health campaigns and national and provincial policies to promote women's sexual and reproductive rights. The health care provided by the prison health service is subject to the security logic of the prison units.⁹⁶ In addition, there are male staff in specific roles in women's detention centres and for inter-prison transfers, contrary to the recommendation made by the CEDAW Committee to the Argentine Government in 2010.⁹⁷ In this jurisdiction there have been repeated cases reported of degrading, violent body searches. Women prisoners say that partial or total nudity forms part of "routine" search techniques.⁹⁸ When this humiliating practice is resisted, detainees are punished. No public policies to eradicate specific forms of institutional violence against women and trans people have been identified.⁹⁹

Only a small percentage of the population in prison have access to educational and work activities, clearly breaching the right to education and work. There is poor educational provision within the prisons, despite the high numbers of illiterate prisoners. At the same time, the work offered in the prisons reproduces social gender stereotypes and stigmatizes women's role and image.¹⁰⁰

⁹⁴The problem of children living with their mothers in prison units should be considered as part of the implications that a woman's detention causes in relation to her links with all her children. In December 2015, the Criminal Enforcement Judge No. 1 of San Isidro, Alejandro David, ordered the house arrest of 22 pregnant women and 50 mothers living with their children in Unit 33 of Los Hornos when he found that the minimum conditions of habitability were not met. In a visit to the unit, the detainees told the judge that the provision of children's medicines was low and that drugs were frequently out of date. "Hábeas corpus colectivo a favor de las mujeres madres con niños y mujeres embarazadas alojadas en la Unidad n°33 de Los Hornos", 25 denoviembre de 2015. ("Collective habeas corpus in favour of mothers with children and pregnant women lodged in Unit 33 of Los Hornos, 25 November 2015")

⁹⁵Having precarious housing as home and its being place where the raid took place, or in other words, socio-economic difficulties hamper access to alternative forms of detention for women with less economic and social capital.

⁹⁶When Celeste entered prison she was 18 years old and had no health problems. Today, she is 26 years old and has six children. She cannot walk and she will not be able to have any more children due to having had her ovaries and uterus removed after an uncontrolled infection. Celeste too was a victim of reprisals that irreversibly affected her physical health. For three years she has had two boards supporting her right leg and she cannot move without help. Further to a beating at the hands of prison staff she suffered a dislocated shoulder and a broken leg. For more information we recommend reading the case at: Vanina Escales, y Edurne Cárdenas, CELS; "Ni unameno La violencia institucional a la luz de la Ley de Protección Integral a las Mujeres", *Derechos humanos en Argentina 2016*, cap. 8, 2016. Available at:

<http://www.cels.org.ar/common/IA%202016%2008%20NiUnaMenos.pdf>

⁹⁷"28. The Committee recommends that the situation of women in prisons be resolved by developing policies, strategies and comprehensive programmes with a gender perspective. In particular, it urges the State Party to guarantee that women prisoners are guarded by prison staff who are aware of gender issues and that male prison officers have no direct contact with female prisoners." Observatory on Gender-based Violence of the Ombudsman of the province of Buenos Aires "*Mujeres encarceladas: monitoreo de las recomendaciones del Comité Cedaw al estado argentino*" ("Incarcerated women: monitoring the CEDAW Committee recommendations to the Argentine State").

⁹⁸Technics use entering and leaving the zone to attend workshops, recreational and /or educational activities, to perform work duties and even on visiting days.

⁹⁹The situation of women held in police stations deserves special mention. For example, in Jujuy province, in the police station of Barrio Huaico in that province - that houses women activists from the Tupac Amaru organization - the visits regime is very limited: just one hour, twice a week. Cells are very small and shared by two or more people. During the winter they had no hot water in the bathrooms or items to keep warm.

¹⁰⁰During the first half of 2016, the workshops offered by the General Sub-directorate of Work of the Province of Buenos Aires Prison Service included one on "Painting on canvas", "Sewing" and training in domestic service entitled "Services in Private Houses". This information can be found on the Buenos Aires Prison Service official web site: <http://www.spb.gba.gov.ar/site/index.php/unidad-33-los-hornos>

The population of incarcerated trans people is one of the sectors that is most vulnerable to the criminal justice system, in particular to police persecution based on discriminatory biases. There are currently 77 trans women imprisoned in the Buenos Aires Prison Service,¹⁰¹ most of whom have not been convicted. 80% of them are foreign.¹⁰² The total number of trans people imprisoned in the country is unknown. This population is generally made invisible in official records and is sometimes forced to hide their identity in the face of the discrimination and other forms of violence - especially sexual violence - of which they are victims.¹⁰³

Cases reviewed by the Observatory on Gender-based Violence of the Ombudsman of the Province of Buenos Aires warn of the automatic use of pre-trial detention¹⁰⁴ and the disproportionality of the penalties imposed (e.g. offences under Law 23737) in cases of non-violent crime. It also draws attention to the extended use of abbreviated solutions without in-depth lines of enquiry to identify the networks of illegality that underlie every case.¹⁰⁵

Indigenous women. Institutional violence is a constant in the accounts of indigenous women who access the health services. There are material barriers to their accessing health care: geographical barriers in terms of time and distance that are made worse by the lack of accessible roads and lack of transport. Economic resources are a key factor in access to health care being available or not, from travel to medical centres to the purchase of the medicines needed to implement the treatments diagnosed. Many indigenous women live in communities in isolated rural areas far from medical centres and where public transport is scarce and even where ambulances for emergencies are not always available or able to respond in a timely manner. For the most isolated communities, forms of communication are limited to certain times during the day and when the electricity supply is off they do not have a telephone signal to be able to communicate or report an emergency.

Disabled Women. Women with disabilities face systematic situations of violence in access to health care, in accessing and remaining in education system, in barriers to participation in the labour market, in access to justice, while running a greater risk of sexual harassment and violence. The incidence of violence against women with disabilities noticeably increases in the health arena. From the Julia Pastrana Centre (Space for Sexuality and Functional Diversity / Disability), one of the main demands of women with disabilities is for their sexual and reproductive rights: their sexuality is denied under a strong prejudice of infantilization, together with a lack of privacy. Disabled women's right to maternity continues to be denied. At present, the issues of women with disabilities continue to be addressed from a pathologic, medical approach and not a social one; There are still cases of forced sterilization or lack of consent to the use of contraception by medical professionals.

Suggested questions

Please state:

- How many pregnant women and/or women with minor children have received house arrest?
- What are the mechanisms for women with this status to access house arrest?
- How many pregnant women and/or women with children aged under five years are in prison (provincial or federal)?
- What social security provisions and benefits do pregnant women and/or women with children aged under five years receive?
- What are the mechanisms does the State have to solve the problems that lead the courts to reject the use of house arrest?

For example, not having a fixed address?

- What measures have been taken to provide the conditions to maintain links between women deprived of liberty and their families?
- What measures are planned by the CNM to work with women deprived of liberty? What measures and actions are contained in its National Plan?
- Regarding the situation of women deprived of liberty for drug offences, the State reports that the population of women incarcerated for drugs offences increased by 271% between 1989 and 2008. We suggest the following question:
- Has the State taken any measures to respond to the sharp increase in women imprisoned in the last 15 years, taking account of the fact that most of these are related to minor, non-violent drug offences?

¹⁰¹Official data cited by the Buenos Aires Prison Service in May 2016.

¹⁰²The lack of regularization of their immigration status affects their opportunities to access social assistance programmes.

¹⁰³For more information we refer to the specific report on the situation of cross-dressing and trans women in Argentina, presented in this session.

¹⁰⁴While the average number of remand prisoners in the province of Buenos Aires and in the Federal Penitentiary System is 60%, this percentage rises to 70% in the case of women in both prison services.

¹⁰⁵Example: Liliana is a Venezuelan mother of two children. She agreed to transport drugs under threat of harm being done to her family if she refused. While she is imprisoned in Argentina, her children remain in Venezuela. Liliana's case is representative of those of other women accused of being drugs mules who were co-opted by networks that are similar to those set up for trafficking in people.

- After defederalization of drug crime in several Argentinian provinces,¹⁰⁶ have any steps been taken to compile data beyond the Federal Penitentiary System on the numbers of women deprived of liberty for drug offences?
- Is there any information on the types of sentences received by women prisoners for drug offences? Has any policy of alternatives to incarceration for these cases been initiated?
- In Argentina, nine out ten foreign women incarcerated for drugs offences at Federal level were imprisoned for being couriers and 96% of them were first-time offenders.¹⁰⁷ Is there any updated information on this? What measures have been taken to ensure that family and emotional ties are not broken?

Suggested recommendations

- Review by judicial areas the grounds for the criminalization and imprisonment of women projected to be used in the misuse of preventive detention. At the time a woman is arrested, police and judicial officers should take account of the impact that the arrest will have on the children both during and after the arrest procedure.
- Promote the use of alternatives to prison for minor drugs offences committed by women heads of household.
- Ensure the design and implementation of gender-sensitive public policies within prisons housing women for definitions with regard to work, access to health care and the exercise of motherhood inside and outside of prison.
- Ensure that information published on official websites is clear, accurate and updated in terms of officials, rules and functions of each unit.
- That governmental personnel in prisons didn't use methods to immobilize women prisoners when they are in delivery or breast feeding.
- Review the roles of male staff in women's prisons, since they tend to apply the use of force, sometimes intervene in conflict situations and form part of the staff involved in transfers.
- Define social policies to support access to alternative forms of detention in every pertinent case and regularize the living regime under that form of detention.

¹⁰⁶See <http://cels.org.ar/common/cap%204%20para%20web.pdf>

¹⁰⁷Centro de Estudios Legales y Sociales (CELS), Ministerio Publico de la Defensa, y Procuración Penitenciaria Nacional, *Mujeres en Prisión: los alcances del castigo*, 2011. <http://www.cels.org.ar/common/documentos/MujeresEnPrision.pdf>