



ARGENTINA

SUBMISSION TO THE UNITED NATIONS COMMITTEE ON THE ELIMINATION OF ALL
FORMS OF DISCRIMINATION AGAINST WOMEN

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AMNESTY
INTERNATIONAL



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1. INTRODUCTION

Following the presentation in March 2016¹ of a summary containing the salient issues of concern involving Argentina documented by Amnesty International, the organization wishes to share with the Committee on the Elimination of All Forms of Discrimination against Women of the United Nations (the CEDAW Committee) this updated report, prior to the seventh periodic review on Argentina.

In this report Amnesty International addresses concerns involving sexual and reproductive health and violence against women.

2. SEXUAL AND REPRODUCTIVE RIGHTS

2.1 NON-PUNISHABLE ABORTION IN ARGENTINA:

Argentina adheres to "the model of indications or causes", whereby abortion is criminalized except under certain conditions. For brevity's sake we refer to the March 2016 submission containing a description of the regulatory and legal framework involving non-punishable abortion in Argentina.

The absence of a firm strategy to ensure the compliance by federal authorities with the legal (or non-punishable) abortion laws is reflected in the fact that more than four years have elapsed since the ruling by the Supreme Court of Justice of Argentina (SCA) in the case "*F., A.L. s/ medida autosatisfactiva (precautionary measure)*"², which condemned the practice of prosecuting, obstructing and/or delaying the right to access a legal abortion: however, only 8 of the 25 jurisdictions in the country have adhered to the National Protocol or have protocols which, to a large extent, follow the criteria established by the SCA³. Other eight jurisdictions issued protocols which included requirements obstructing, instead of facilitating, the access by women to the services of safe abortions, services which they are entitled to⁴, and last, eight jurisdictions have not issued any protocols⁵. Namely, more than half of the jurisdictions in the country still do not have a regulation ensuring the enjoyment of a right, which women are entitled to since 1921.

To express it in concrete terms: the situation is so arbitrary that in practice depending on the jurisdiction where a woman or a girl is born, she will be able to enjoy the right to have access to an abortion or not. However, even within the provinces where protocols exist, they are implemented erratically and also some regressive initiatives seeking to stop this practice have been observed.

¹ Before the adoption of the issues list prior to the Seventh Periodic Report, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fNGO%2fARG%2f22875&Lang=en

²CSJN, "*F., A. L. s/ Medida autosatisfactiva*", F. 259. XLVI, sentence of March 13, 2012.

³These provinces are: Chaco, Chubut, Jujuy, La Rioja, Misiones, Santa Cruz, Santa Fe and Tierra del Fuego.

⁴City of Buenos Aires, Córdoba, Entre Ríos, La Pampa, Neuquén, Province of Buenos Aires, Río Negro and Salta.

⁵Catamarca, Corrientes, Formosa, Mendoza, San Juan, San Luis, Santiago del Estero and Tucumán.

Recommendation:

- The Argentine State is called on to include the necessary practices to terminate pregnancies in the cases covered by the current law at a federal level and as a basic and mandatory service by health care system. This must include all the evidence-based methods that proved to be effective, safe and preferred in these cases, in keeping with WHO recommendations.

2.2 OBSTRUCTING ACCESS TO LEGAL ABORTIONS

Despite the legal framework in force, the reality in Argentina comes close to those legal contexts in which abortion is totally prohibited. For brevity's sake, we refer to the March 2016 submission containing a description of the obstructions in the access to legal abortions in Argentina.

After the March 2016 submission, the case of a 12-year-old girl belonging to the wichí indigenous community (called Juana, to keep her identity anonymous) became known to the public in the Province of Salta, in Northern Argentina. She was raped by a group of locals in ancestral territory and was forced to continue with her pregnancy until she was 7 months into it. Although her parents reported the rape, no-one from the State approached her to inform her of her options and rights. Once again, an absent State which not only neglects victims and acts in complicity, but also exposes a minor girl to a situation of violence and torture. After 31 weeks of gestation, she underwent a C-section because her pregnancy was deemed unviable and with a diagnosis of anencephaly⁶.

Regarding this issue, the CEDAW Committee⁷ stated that "State Parties should further organize health services so that the exercise of conscientious objection does not obstruct their effective access to reproductive health care services, including abortion and post-abortion care"⁸. Likewise, the Committee stated that "[i]t is discriminatory for a State party to refuse to provide legally for the performance of certain reproductive health services for women. For instance, if health service providers refuse to perform such services based on conscientious objection, measures should be introduced to ensure that women are referred to alternative health providers"⁹. In turn, the Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) voiced its concern about the restrictions to access abortions, especially for victims of rape, due to the rejection by some physicians and health centres to carry out legal procedures, based on conscientious objection. It further stated that, in compliance with the Technical and Policy Guide of the World Health Organization on abortions without risk, the State Party must guarantee that the exercise of the conscientious objection does not prevent women or girls from accessing the services they are entitled to by law, that only those women and girls need. The State Party must also enforce a legal and/or policy framework allowing women to have access to abortion, provided the medical procedure is authorized by law¹⁰.

The CEDAW Committee also stated that "the accountability of justice systems also refers to the monitoring of the actions of justice system professionals and of their legal responsibility in cases in which they violate the law"¹¹. Namely, sanctions to those who unlawfully obstruct access to legal abortions, compromising the right to life of women, be it by their actions or by their omissions.

Recommendations:

- The Argentine State is called on to ensure access to legal abortions in all jurisdictions of the

⁶See information available on <http://www.pagina12.com.ar/diario/suplementos/las12/13-10633-2016-06-11.html>

⁷ CEDAW Committee, Report on Belize, UN Doc. A/54/38/Rev., July 1999, Part 2, Paragraph 56; Report on the Dominican Republic, UN Doc. A/53/38/Rev. 1, July 1998, Part I, Paragraph 337, among others.

⁸ CEDAW Committee, Declaration on the Sexual and Reproductive Health and Rights, on the occasion of the Review of the Action Program adopted at the International Conference on Population and Development (Cairo, Egypt, 1994) beyond 2014, 57th Period of Sessions, between February 10 and 28, 2014.

⁹ CEDAW, General Recommendation number 24, Women and Health, 2 February 1999

¹⁰ CAT, Final observations on the fifth and sixth combined periodic reports of Poland, CAT/C/POL/CO/5-6, 23 December 2013, available at <http://bit.ly/1xpQJTj>

¹¹ CEDAW, CEDAW/C/GC/33, 14 August 2015.

- country, supported by public dissemination campaigns to promote increased knowledge of the right to legal termination of the pregnancy in the cases included by the current law.
- The Argentine State is called on to monitor the exercise of conscientious objection and to ensure compliance with the obligations under international human rights law.

2.3 CRIMINALISATION OF SEXUAL AND REPRODUCTIVE RIGHTS

The obstacles to legal abortion and the threat of criminalisation push women to resort to unsafe abortions.

The criminalisation of abortion has a negative impact on the access to legal abortions. In a recent report, the Special Rapporteur of the UN on the right to health examined the impact of laws punishing or in any way restricting abortion, for instance, when certain behaviours during pregnancy are punished, when access to contraceptive methods and family planning is limited, when information is denied or when sexual and reproductive education is not provided. The Rapporteur pointed out that said restrictions are usually discriminatory and violate the right to health by limiting the access to goods, services and quality information¹². And that "the criminalization generates and perpetuates stigma; restricts their ability to make full use of available sexual and reproductive health-care goods, services and information; denies their full participation in society; and distorts perceptions among health care professionals, which, as a consequence, can hinder their access to health-care services"¹³.

In the Province of Tierra del Fuego, a young woman in a situation of great vulnerability and with a history of violence, was prosecuted in a 6-year case, and was finally acquitted, for resorting to a medicine woman living in a poor district of the province capital to have an abortion. The lack of access to a legal abortion forced her to clandestinity, putting her life and health at risk, and then to be exposed to legal prosecution for having exercised what should have been her right. This occurred in spite of the minimum obligation of the States under CEDAW, of decriminalising abortion and ensuring that women may have access to abortion services, at least when their life or health are at risk, when the pregnancy resulted from rape or incest, or when there is a serious malformation of the foetus¹⁴.

Another event which evidences the interference of criminal law in the sexual and reproductive life of women came to light recently. Belén¹⁵, a 25-year-old woman, was deprived of her liberty for more than two years in the Province of Tucumán, in Northern Argentina, for having a miscarriage in a public hospital, as stated in her medical record. Both the physicians and the police violated her right to privacy, unlawfully accused her and provided ill treatment. On the early morning of March 21, 2014, Belén went to the emergency room of the Hospital de Clínicas Avellaneda in San Miguel de Tucumán experiencing abdominal pain. She was referred to the Gynaecology Service because she was bleeding heavily. The physicians there informed her she was having a miscarriage of a foetus of approximately 22 weeks of gestation. Belén was unaware of her pregnancy. After receiving degrading treatment from the health care staff, she was reported to the police staff on duty, in flagrant violation of the professional secret governing the doctor-patient relationship¹⁶. Belén was admitted to a public hospital seeking help and was jailed for more than two years. She was first indicted for

¹²United Nations Special Rapporteur on the Right to Health, provisional report on The Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, A/66/254 of 3 August 2011, Paragraph 25

¹³Idem, UN Rapporteur Health, 2011, Paragraph 17

¹⁴CEDAW, Final observations of the third to the sixth periodic reports combined for Senegal, July 2015, available at <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPFPRICAqhKb7yhskcAJS%2FU4wb%2BdlVlcG05Ry5rnmDcit06OLGkYHsU3p08Y2nyjS14rGRZb9RgNHfNnt6G6Q7sYONIZZyGgQAJDzqdMWlrw3ZUyqd0C%2FwolZpYg9WWqlUG6msEoKqK8rcwg%3D%3D>; see also CEDAW, Final Observations: Peru, UN Doc. CEDAW/C/PER/CO/7-8 (2014), par. 36(a) (the Committee recommends the State that "It extend the legalization of abortion to the cases of rape, incest and severe foetus malformation"); CEDAW, Final Observations: Chile, UN Doc. CEDAW/C/CHL/CO/5-6 (2012), Paragraph 34 ("The Committee deeply regrets that all the recent parliamentary initiatives aimed at decriminalizing abortion have failed in the State party, including in the cases of risk to the health or the life of the mother, grave malformation of the foetus or rape.

¹⁵A pseudonym is used by decision of the victim. For more information visit <http://www.amnistia.org.ar/rau/argentina3>; <http://www.pagina12.com.ar/diario/suplementos/las12/13-10537-2016-04-29.html>; <http://www.pagina12.com.ar/diario/sociedad/3-298129-2016-04-29.html>

¹⁶The CEDAW Committee in its General Observation number 24 and 33 warned about the connection between the compliance with the right to privacy as regards issues of health, abortion and the health of women. "The lack of respect to the confidential nature of the information affects both men and women, however, it may dissuade women from obtaining counseling and treatment and therefore negatively affect the woman's health and wellbeing. Because of that, women will be less prone to obtain medical attention to treat diseases affecting the genitalia, use contraceptive means or address cases of incomplete abortions, and in the cases where she was a victim of sexual or physical violence". And it expanded on the responsibility of the justice in these cases, because "accountability of the justice systems also refer to the monitoring of the actions of the professionals acting in them and their legal responsibility in the cases they violate the law". This means, sanctions to those who obstruct or violate the spaces of confidentiality of women, thus putting the right to life of women at risk, be it by their actions or their omissions.

murder after abortion, a criminal figure which is not even included in the code. The prosecutor of the cause then changed the charges to aggravated murder, with sentences of up to 25 years in prison. Belén was in pre-trial detention for more than two years. On April 19, 2016 she was sentenced to 8 years in prison in a trial where her rights were violated from the beginning: her position was never heard.

On May 12, 2016 the court rejected the request to be released from prison filed by her defence. On August 15, the Supreme Court of Justice of the Province ruled her release from prison. The judges understood that there are no reasons to extend her imprisonment. However, a review of her sentence is still pending.

This case was addressed on July 15, 2016 by the United Nations Human Rights Committee within the frameworks of its Final Observations of the Fifth Periodic Evaluation of the country involving the compliance level of the obligations included in the Covenant on Civil and Political Rights. In addition to expressing its concern due to the lack of implementation of legal abortions¹⁷, the Committee makes direct reference to the "Belén" case, and calls upon the State to "review the case in accordance with the international standards in this issue, aimed at her immediate release"¹⁸.

Some years ago, in 2012 and in this same province a woman (known as María Magdalena) went to the hospital in the process of having a miscarriage. The female doctors made the police force enter the delivery room. She was operated on without anaesthesia and following the same rationale as in Belén's case she was charged with abortion. The file is being heard by the Supreme Court of Justice of Argentina, to determine the responsibility for violation of the professional secret and the violence used.

Recommendations:

- The Argentine State is called on to train the members of health care staff regarding the value of the professional secret when treating miscarriages or abortions.
- The Argentine State is called on to offer post-abortion medical attention that is safe and accessible, irrespective of whether the case is a legal abortion or not.

2.4 ESTIMATED NUMBER OF CLANDESTINE ABORTIONS

It is estimated that between 460,000 and 600,000 clandestine abortions occur each year in Argentina¹⁹. Public hospitals across the country receive 53,000 hospitalizations resulting from abortions every year²⁰. Out of this total number, approximately 15% are adolescents and girls younger than 20 years old, and approximately 50% are women between 20 and 29 years old.

Recommendation:

- The Argentine State is called on to adopt the necessary measures to ensure that the cases of non-punishable abortion be treated within the public health care system.

2.5 LACK OF ACCESS TO DRUG-INDUCED ABORTIONS

Mifepristone and misoprostol are the drugs listed by the World Health Organization (WHO) as essential drugs. The drug indications include: cervical maturation, induction of first and second trimester abortion, prevention and prophylaxis of postpartum haemorrhage, incomplete abortion, instrumental preparation of the cervix

¹⁷UN Committee on Human Rights, final observations of the fifth periodic report of Argentina, Paragraph 11 CCPR/C/ARG/CO/5, 15 July 2016.

¹⁸UN Committee on Human Rights, final observations of the fifth periodic report of Argentina, Paragraph 11 CCPR/C/ARG/CO/5). Our highlighting of the text.

¹⁹ National Ministry of Health, *Estimation of the magnitude of induced abortion in Argentina*, Edith Pantelides (Conicet and CENEP- Center for Population Studies) and Silvia Mario (Instituto Gino Germani), pp. 111 and 112. Similar to other countries in Latin America, Argentina has an estimation of the number of induced abortions per year. This estimation was elaborated at the request of the National Ministry of Health using two internationally validated methodologies: the method based on statistics of hospital admissions for abortion complications and the residual method. With the first method, the number of induced abortions in 2000 was 372,000 to 447,000, with a ratio of induced abortion birth of 0,53 to 0,64: this is more than 1 abortion for every two births. With the second method, the estimate for 2004 indicates that between 486,000 and 522,000 abortions took place annually.

²⁰Health Statistics and Information Directorate (DEIS), National Ministry of Health, admissions to official establishments for diagnosis, 2010, December 2012, p. 19.

(OMS, 2012)²¹. If mifepristone is not available, the WHO suggests the exclusive use of misoprostol. The Argentine Ministry of Health recognized the drug treatment of abortion using misoprostol²² in various documents. However, the drug access is not guaranteed.

Mifepristone production and sale is not authorised in Argentina, while misoprostol is indeed produced and sold. According to the records of ANMAT (Administración Nacional de Medicamentos, Alimentos y Tecnología Médica - National Administration of Drugs, Foods and Medical Technology), the only pharmaceutical laboratories producing misoprostol are Beta S.A. and Domínguez S.A. The former manufactures Oxaprost, indicated for rheumatic pain. The other laboratory manufactures Misop 25, sold for hospital use only. This indicates that in the practice, women who want to have access to a legal abortion do not have a drug induced option.

Misoprostol is not included in the Plan Médico Obligatorio (Mandatory Medical Plan) to be observed by health care systems and private health insurance companies. In this regard, the Centro de Estudios Legales y Sociales (CELS, Centre for Legal and Social Studies), the Lesbianas y Feministas por la Decriminalización del Aborto (The Lesbians and Feminists for the Decriminalization of Abortion) and the Secretaría de Género de Nuevo Encuentro de la Ciudad Autónoma de Buenos Aires (Gender Secretary of Nuevo Encuentro) demanded from ANMAT "the removal of the restriction to the sale of misoprostol pills not based on health issues and that the best possible access to them be ensured, in keeping with the international standards on human rights"²³.

Recommendation:

- The Argentine State is called on to ensure the access to misoprostol for obstetric use to women who are entitled to a legal abortion.
- The Argentine State is called on to include misoprostol in the Plan Médico Obligatorio to be observed by the health care systems and the private health care providers.

2.6 MATERNAL MORTALITY RATE IN ARGENTINA

Over the last 30 years, complications resulting from abortions carried out in risky situations have been the first cause of maternal death and account for one third of the total number of those deaths²⁴. Statistics covering the 2007-2011 five-year period show that 23% of maternal deaths derived from unsafe abortions²⁵.

Although the fertility rate is low in Argentina, women face disproportionate risks when they get pregnant: According to vital statistics published by the Ministry of Health of Argentina, 290 women lost their lives due to pregnancy-related causes in 2014²⁶. Deaths were 243²⁷ in 2013, and 258 in 2012. However, this is only a representative figure. Maternal deaths resulting from indirect obstetric causes²⁸ account for one fourth of the total maternal deaths²⁹. This indicates that it is likely that many women did not have access to the information, the opportunity or the decision to terminate their pregnancies based on a health related cause.

²¹See the OMS Guidance: "Safe Abortion: technical and policy guidance for health systems", 2012 (Second edition) available at: http://apps.who.int/iris/bitstream/10665/77079/1/9789243548432_spa.pdf. //

http://www.who.int/reproductivehealth/publications/unsafe_abortion/9789241548434/en/

²²See "Guía Técnica para la Atención Integral de los Abortos No Punibles" (Technical Guidance for the Non Punishable Abortions) (2010), available at : <http://www.msal.gob.ar/images/stories/bes/graficos/000000667cnt-Guia-tecnica-web.pdf>; Guía para la atención integral de mujeres que cursan un aborto (Guidance for the comprehensive care of women undergoing abortion) (April 2014), available at:

<http://www.msal.gob.ar/images/stories/bes/graficos/000000587cnt-Guia-para-la-atencion-integral-de-mujeres-que-cursan-un-aborto.pdf>;

"Protocolo para la atención integral de las personas con derecho a la interrupción legal del embarazo" (Protocol for the comprehensive care of persons entitled to a legal termination of the pregnancy) (2015), available at

http://www.msal.gob.ar/images/stories/bes/graficos/000000875cnt-Protocolo_ILE_sl.pdf;

²³CELS, "Misoprostol: solicitamos a la ANMAT que lo reconozca como medicamento obstétrico y garantice su acceso" (Misoprostol: we demand that ANMAT lists it as an obstetric medication and ensures access), 22/09/2016, available at:

<http://www.cels.org.ar/comunicacion/?info=detalleDoc&ids=4&lang=es&ss=46&idc=2130>

²⁴Ministerio de Salud de la Nación. Dirección de Estadísticas e Información de Salud. Estadísticas vitales. Basic information 2010. www.deis.gov.ar, acceso 29 de marzo de 2012.

Ministerio de Salud de la Nación. Dirección de Estadísticas e Información de Salud. Estadísticas vitales. Basic information 2010. www.deis.gov.ar, acceso 29 de marzo de 2012

²⁶They increased with respect to 2013 (243) and 2012 (258).

²⁷DEIS, 2014.

²⁸Women dying resulting from pathologies aggravated as a consequence of the pregnancy, delivery or puerperium .

²⁹Romero, Ábalos, & Ramos, 2013. Indirect maternal deaths are those in which women already have a pathology, which is worsened by the pregnancy. If they had been warned and informed regarding the risks of continuing with the pregnancy and if they had been able to assess the option of having access to a safe abortion, these deaths could have been avoided. .

Argentina acknowledged that "maternal mortality is frequently underestimated due to deficiencies in the doctor's statements regarding the cause of death which is reported on the Death Statistical Report (Informe Estadístico de Defunción)"³⁰, whereby even the official statistics are not representative of the total number of women and girls who lost their lives.

The Millennium Development Goals (MDG5) to which the Argentine State committed to comply with established a reduction of maternal mortality, from 52 deaths for every 100,000 live births (1990) to 13 for every 100,000 live births in 2015. The most recent official data available for 2013 show that the maternal mortality rate is 32 deaths for every 100,000 live births (2013) resulting from pregnancy, delivery and puerperium related causes³¹. According to the figures in the UNICEF report for 2015³², Argentina reduced the maternal death rate by 17,5%. The reduction trend was 18% between 1990 and 2015 instead of the 75% reduction to which the country had committed.

Likewise, the inequalities in maternal mortality rates in the provinces illustrate the multiple discriminations suffered by women living away from urban centres in a better situation. The rates are two, or sometimes three fold the national rate. At present, abortion continues to be the main cause of maternal mortality in more than half the provinces in the country. Complications caused by unsafe abortions are the first single cause of maternal mortality in 17 out of the 24 provinces. In the two provinces where the cause of death is "other direct obstetric causes", abortion continues to be the second cause³³. This situation shows that women living in provinces such as Formosa or Chaco face a disproportionate risk when compared to the risks faced by women living in jurisdictions such as the City of Buenos Aires, or the provinces of Córdoba or Buenos Aires.

On the other hand, an adequate active monitoring system of maternal deaths is not in place. Some efforts have been made to estimate the maternal deaths based on the information available and using the Vital Statistics System -which does not provide "real time" information³⁴, and the Sistema Nacional de Vigilancia Epidemiológica (SINAVE³⁵- National Epidemiological Surveillance System). However, only as recently as in 2007 were deaths included as mandatory reporting events. Maternal mortality monitoring and analysis committees have been established at a hospital, province and national levels³⁶, however, their functioning is at least erratic. The Comisión Nacional de Vigilancia y Control de la Morbi-mortalidad Materna (National Commission for the Surveillance and Control of the Maternal Morbidity and Mortality) held its first session in 2005 and has performed irregularly³⁷ since then. Indeed, the only report available³⁸ online from the Commission dates back to that year³⁹. The health care professionals members of these commissions have not received any special training nor have institutional time available dedicated to perform their tasks⁴⁰.

Recommendation:

- The Argentine State is called on to adopt specific initiatives and programs aimed at reducing the high maternal mortality rates caused by unsafe abortions, including training geared to all health care system staff.

2.7 INFORMATION ON THE PRACTICE OF LEGAL ABORTIONS

At present the official system of national records does not account for all legal abortions provided in the country. These omissions and shortcomings in the federal records system have an impact on the quality of the implementation of health-related policies which are necessary to ensure the access to legal abortions.

³⁰ *Idem*

³¹ DEIS, 2014

³² http://www.unicef.org/argentina/spanish/monitoreo_ODM_actualiza.pdf

³³ Romero, Ábalos, & Ramos, 2013

³⁴ Time elapsed between the occurrence of the facts and the reporting varies between nine months and a year.

³⁵ It is the ongoing and systematic gathering of information regarding specific health problems in populations, for processing, analysis, and use to observe changes in the distribution trend of health-related problems and to make intervention decisions. (Ortiz & Esandi, 2010).

³⁶ The Comisión Nacional de Vigilancia y Control de la Morbi-mortalidad Materna was created in 2002 (Resolution number 672, Ministry of Health). Another Commission, founded in 1996, was active previously 1996. The new Commission had its first meeting in 2005, and it has been performing irregularly since then. Ortiz & Esandi, 2010.

³⁷ Ortiz & Esandi, 2010.

³⁸ As of 25 February 2015.

³⁹ Ministry of Health of Argentina. Available at: <http://www.msal.gov.ar/promin/> (accedido 15 de febrero de 2015).

⁴⁰ Ortiz & Esandi, 2010.

Thus it is not possible to have adequate information regarding the potential, real and effective demands, the necessary materials and human resources, the barriers and hindrances in service rendering, the problems in the service provision or the standards of quality.

Additionally, health records compiled at present also face the limitations arising from the insufficient coverage of certain areas of the health care systems: almost all health-related data available are compiled from the data obtained from the public health system, which sets aside the data coming from the remaining health subsystems. These subsystems may have significantly different features or their figures may alter the statistical averages.

The Argentine Ministry of Health issues an annual report covering sexual and reproductive health services. This report originates the Programa Nacional de Salud Sexual y Procreación Responsable (National Program of Sexual Health and Responsible Procreation) containing information from all the provinces. The report has data on the number and origin of the legal abortions reported by the local health care systems. According to the 2013 Report, 14 provinces informed data on legal abortions, out of which 12 performed the practices, and four referred the patients to other jurisdictions when they identified cases complying with the causes for a legal abortion⁴¹.

At least 18 provinces reported having at least one site providing legal abortion services, six of them informed improvements in the implementation of care processes and eight provinces reported problems to access materials for these practices as well as other kinds of hindrances to provide legal abortion services.

Three provinces informed they did not have legal abortion services at a local level and the remaining provinces did not provide any information regarding this issue.

According to the report, a total number of 374 sites have legal abortion services at a national level. In the 18 provinces releasing their data, and among all the provinces, "more than 1500 non-punishable abortion practices" were informed.

The epidemiological information of the population is key to plan and evaluate the performance of the health care system. In particular, robust information is essential for specific segments of the population requiring special health care services. In these cases, the identification of the size of the demand and the features of the population to be served as well as the features of the services available and required becomes an essential tool to design and improve the health care policies.

Recommendation:

- The Argentine State is called on to take the necessary measures to implement a system to record the abortions made in compliance with the law, which impose reporting obligations on all jurisdictions of the country.

2.8 SITUATION OF GIRLS AND FEMALE ADOLESCENTS

The situation of the girls and female adolescents is not far removed from this reality. The current adolescent population is the most numerous in the country's history⁴².

In Argentina, one of every six women has her first child before the age of 19⁴³. The average age of the first pregnancy is 16.6 years old⁴⁴. The percentage of newly born children from adolescent mothers (less than 20 years old) with respect to the total number of births has not changed significantly, with figures around 15% since 1990. However, the differences among the Argentine provinces need to be pointed out, since the percentage of adolescent pregnancies exceeded the national average by more than 20% in 6 out of 24 provinces: 25% in Formosa and Chaco, 22% in Misiones and 21% in Catamarca, Corrientes and Santiago del Estero 21%⁴⁵. 12.8% of maternal deaths occur in women 15-19 years old⁴⁶.

⁴¹Programa Nacional de Salud Sexual y Procreación Responsable. Informe de gestión anual, year 2013. Province Report. Available at: http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ARG/INT_CEDAW_ADR_ARG_19577_0.pdf

⁴²UNFPA, 2013.

⁴³Brizuela *et al*, 2014.

⁴⁴Brizuela *et al*, 2014.

⁴⁵UNICEF, Situation of the pregnancy of adolescents in Argentina, on the World Population Day, July 2013

[http://www.unicef.org/argentina/spanish/Embarazo_adolescente_Argentina-VB.pdf]. The report is based on data from the Argentine Ministry of Health "Estadísticas Vitales. Información Básica – Año 2012", Dirección de Estadísticas e Información de Salud, Serie 5, Número 56, December 2013 [<http://www.deis.gov.ar/publicaciones/archivos/Serie5Nro56.pdf>], 2011, page 2.

⁴⁶Brizuela *et al*, 2014.

Some provinces tend to be very reluctant to the implementation of the Ley de Educación Sexual (Sexual Education Law) - National Law number 26,150, which enshrined the right of all students to receive comprehensive sexual education and created the Programa Nacional de Educación Sexual Integral (National Program of Comprehensive Sexual Education) - enacted in 2006⁴⁷.

Until 2015 only eight provinces enacted provincial sexual education laws⁴⁸. Two provinces issued local resolutions establishing the implementation of the National Program⁴⁹. However, even in these jurisdictions there is a resistance to include this issue in the syllabus. The distribution of work materials and tools was not effective enough and did not have the necessary outreach. The challenges faced are: the lack of confidence felt by the teaching staff when they need to teach comprehensive sexual education content in their classrooms, the difficulties and fear when talking to the students' families, the lack of commitment by the teachers and the school principals towards these issues, as well as the institutional difficulties of implementation⁵⁰.

Some concern has been expressed regarding the focus of some materials created locally, since they may end up being more restrictive than the contents included at a national level. An example of this is the sexual education booklet issued by the Province of Salta, developed by the provincial government jointly with conservative organizations. It includes inaccurate data in some cases and grossly incorrect in some others⁵¹.

A survey organized by UNICEF⁵² stated that a great majority of students interviewed who "received sexual education state that the issues and contents addressed refer to the biological aspects of sexuality. Some of the issues mentioned were the male and female reproductive systems, conception and pregnancy, contraceptive methods, sexually transmitted infections, in particular HIV, and prevention". And added: "most of the students who received sexual education were unsatisfied with the kind of education obtained. The scarcity of information and the inadequacy in conveying it was especially pointed out"⁵³.

Although boys, girls and adolescents in Argentina are legally entitled to have access to information and sexual and reproductive health services as of the age of 14 without the consent of their parents, in the practice there are difficulties to ensure confidential, safe and quality spaces for adolescents seeking advice and assistance⁵⁴. Additionally, there is a high degree of discretion by the health care services and a lack of a clear programmatic orientation to standardize the behaviour of professionals. There are differences in the criteria used within each provincial or municipal programme, for instance as of what age contraceptive methods are to be offered and under what conditions⁵⁵. In this sense it is necessary to offer quality preventive sexual and reproductive health care services that are comprehensive, preventive and confidential. And being able to access a legal abortion and prevention of STI and AIDS is also key. Furthermore, it is essential to ensure the participation of adolescents and young adults in issues of their concern. This was stated, among others, by the Committee on the Rights of the Child, when it urged States to ensure "...that girls and adolescents have free and timely access to emergency contraception and raise awareness among women and girls as to their right to emergency contraception, particularly in cases of rape"⁵⁶.

⁴⁷Ciudad Autónoma de Buenos Aires (Law 2.110/06), Chaco (Law N°5.811/06), Entre Ríos (Provincial Law 9.501/03, it includes sexual education because they adhered to PNSSYPR), La Rioja (Law 8.431/08 adheres to the National Law), Buenos Aires (Law 14.744/15 in compliance with the National Law), Río Negro (Law 4.339/09 adheres to the National Law), Santa Cruz (Law 3043/09 adhering to the NL), Misiones (Law VI - N°129/09 establishing mandatory nature in line with NL). Regarding the implementation difficulties at local level in the province of San Juan, Rojas, Fabián "Educación Sexual Integral. Tiempo de correr el velo", Revista de la Universidad Nacional de San Juan, Year IX, N°56, March 2012 [http://www.revista.unsj.edu.ar/revista56/imagenes/launiversidad_56.pdf]

⁴⁸UNICEF, Report "Consultacualitativa: Programa Nacional de Educación Sexual Integral", available at http://www.unicef.org/argentina/spanish/Informe_consulta_cualitativa_programa_educacion_sexual_en_argentina.pdf. "Although all the interviewees had certain information, it was extremely scarce and vague. Namely, most of them did not know the goals and scope of the law. Many interviewees only knew that it was "a polemical law due to the opposition of the church".

⁴⁹Formosa (Resolution N°2.181/12 adhering to the ESI programme. Resolution 5.249/14 establishing the implementation obligation in all schools of the province), La Pampa (Resolution 814/10 creating the Programa Provincial de Educación Sexual, in line with the NL).

⁵⁰UNICEF, Report "Consultacualitativa: Programa Nacional de Educación Sexual Integral", available at: http://www.unicef.org/argentina/spanish/Informe_consulta_cualitativa_programa_educacion_sexual_en_argentina.pdf. "Although all the interviewees had certain information, it was extremely scarce and vague. Namely, most of them did not know the goals and scope of the law. Many interviewees only knew that it was "a polemical law due to the opposition of the church".

⁵¹On the other hand, and in all of them, the enforcement is similar to what was informed by the national program. Some provinces developed a syllabus for all the school grades, some other only for the secondary education. The creation of local teaching materials was promoted over the past years, however the distribution and use remains incipient.

⁵²UNICEF, Report "Consultacualitativa: Programa Nacional de Educación Sexual Integral", available at: http://www.unicef.org/argentina/spanish/Informe_consulta_cualitativa_programa_educacion_sexual_en_argentina.pdf

⁵³*Ibidem*.

⁵⁴An investigation in the provinces of Córdoba, Tucumán, Formosa, Santa Fe and Misiones, reveals heterogeneity and/or the absence of the legal framework to provide clear guidelines to the health care staff regarding these issues, as well as assistance protocols.

⁵⁵CONDERS, Monitoreo Social y Exigibilidad sobre los Derechos Sexuales y Reproductivos en Argentina National Report 2010, December 2010, page 23

⁵⁶CDN, Recommendations of the State of Costa Rica, paragraph 63 , 3 August 2011.

Recommendations:

- The State is called on to ensure the implementation of the comprehensive sexual education law across the Argentine territory.
- The State is called on to ensure the access to the information and to friendly and quality health care services, and to preventive sexual and reproductive services which are comprehensive and confidential for boys, girls, adolescents and young adults.

2.9 INFORMATION ACCESS AND PRODUCTION

Women and girls in Argentina continue facing obstacles to access information and services connected with their sexual and reproductive rights and care.

To have an effective access to sexual and reproductive health, people need to have access to true, timely and scientific information on contraceptive methods which are modern and empowered in order to prevent unwanted pregnancies and sexually transmitted infections. The population must have information to define if and when they decide to have children, as well as to know about the services available in order to have access to a risk free delivery and to have access to a legal termination of the pregnancy in safe and healthy conditions.

Regarding legal abortion, the importance of the access, production and recording of information related with the access to legal abortions lies not only on the need to increase the visibility of legal and safe abortions, by means of a reliable case record keeping, but it also serves to assess the design of public policies in general and also those connected with sexual and reproductive health. The aims are to ensure the access to legal abortions, establish a forecast of the potential, real and effective demand for legal abortions, and also to review and optimize the measures to be taken by the state to improve the rendering of these services, allocating the necessary budget lines (in resources and materials), to define criteria and to deploy adequate efforts to overcome the barriers and hindrances in rendering of these services⁵⁷.

Due to Argentina's federal nature, the federal state and the provincial states are in charge of producing official information to feed the health care system. They use different recording systems to compile and harmonise health-related data. However, as we have already stated, there is no data collection on the number of legal terminations of pregnancies in Argentina. There are no performance indicators regarding the deployment of these services by the health care system. These recording shortcomings make invisible the great inequalities characteristic of the conditions to access legal abortions at sub national levels and among the public and private health care subsystems in the country.

Recommendations:

- The Argentine State is called on to guarantee the access to sexual and reproductive health-related information, which allows women and girls to make informed decisions about their lives and bodies.
- The Argentine State is called on to create a record keeping system to inform legal abortions in all the jurisdictions of the country, describing causes and methods used, which also include performance indicators regarding the rendering of these services by the health care system.

⁵⁷MESECVI, "Guía práctica para el sistema de indicadores de progreso para la medición de la implementación de la Convención de Belém do Pará", OAS. Official Documents; OEA/Ser.L/II.6.15.

3. VIOLENCE AGAINST WOMEN

A massive demonstration under the motto "Not One Less" took place on June 3rd, 2015, regarding the situation of violence against women, the femicides in the country and the lack of public policies to address this situation.

Law number 26,485 to Eliminate and Prevent Violence against Women has been in force since 2009 in Argentina. However, the lack of a regulatory framework and budget allocation prevented its implementation.

A new Comprehensive National Action Plan to Prevent, Assist and Eradicate the Violence against Women for the 2017-2019 period was presented. Part of the guiding strategy of the Action Plan is to build federal cross-cutting, inter-institution and inter-ministry spheres of sharing. Clear identification of functions and responsibilities assumed by the diverse institutions is a key accountability tool to reach the targets established in the National Plan.

On the other hand, the Plan undertakes to produce official statistical information on gender-based violence which will allow the design and implementation of reasonable and effective public policies seeking to prevent and combat gender-based violence. The groundwork available nowadays started from initiatives by the civil society and some other official sources, which do not offer a comprehensive and unified Record of femicides in the country. For instance, numbers provided by the civil society warn about the identification of at least 277 femicides and 29 femicide-related deaths of men and children in 2014⁵⁸

The activist for the human rights of LGBTTI persons, Amancay Diana Sacayán, was murdered in October 2015⁵⁹. Her death happened only one month after two other trans-gender women, Marcela Chocobar and Coty Olmos, had been found dead in Santa Fe and Santa Cruz provinces, as reported by the FALGBT and the CHA.

It is of concern that the National Plan has goals which are too generic and wide, with strategically insufficient measurement indicators which in many cases do not reflect the completion of the goals set. For instance, in the case of sexual and reproductive health, the indicator to comply with the objective of ensuring sexual and reproductive rights of women is the mere existence of a Protocol to address the legal termination of the pregnancy. However, as we have mentioned in the previous paragraph, the challenges in Argentina are not subject to the legal framework in place but to its execution.

Lastly, although young adults are one of the population segments affected by violence and who also have the capacity to enjoy their sexual and reproductive rights, no specific instances for their participation were promoted when this National Plan was created. Therefore, the perspective of this segment of the population was not visible in the different measures proposed.

Recommendations:

- The Argentine State is called on to give a special and relevant role to the Consejo Nacional de la Mujer (National Women's Council), for them to be a part of a priority and cross-cutting policy covering all of the State agencies, having human, financial and institutional resources and a comprehensive vision of all the forms of manifestation of violence against women (not only in the domestic and interpersonal spheres) and with a federal scope.
- The Argentine State is also called on to ensure and provide, as set forth in Law 26,485, the early detection measures and the protective measures in favour of victims at risk, and also, to fully comply with the State's obligation to provide psychical, social and legal support services, and access to justice and redress.

⁵⁸In the absence of official statistics on femicides in Argentina, the Asociación Civil La Casa del Encuentro produces reports on Femicides in Argentina, since 2008. See La Casa del Encuentro en: <http://www.lacasadelencontro.org/femicidios.html>

⁵⁹<http://www.amnistia.org.ar/noticias-y-documentos/archivo-de-noticias/argentina-129>

ANNEX: AMNESTY INTERNATIONAL DOCUMENTS

- *Argentina - Información de Amnistía Internacional para el Examen Periódico Universal de la ONU. 30 April 2012* (AMR 13/003/2012) <http://www.amnesty.org/es/library/info/AMR13/003/2012/es>

- *Informe Anual 2014, Capítulo Argentina*

<https://www.amnesty.org/es/documents/document/?indexNumber=pol10%2f0001%2f2015&language=es>

- *Amnistía Internacional, “El Estado como ‘aparato reproductor’ de la violencia contra las mujeres”* (2016), http://www.amnistia.org.ar/sites/all/themes/template_ai/DerechosSexuales.pdf

- *Amnistía Internacional, “Nunca me vieron como una persona, a mí me vieron como una incubadora”*, (2016), http://www.amnistia.org.ar/sites/all/themes/template_ai/violenciainstitucional.pdf

- *Amnistía Internacional, posición de Amnistía Internacional sobre la Reforma al Código Civil de 2013*, en <http://www.amnistia.org.ar/noticias-y-documentos/archivo-de-noticias/reforma-del-c%C3%B3digo-civil>

- *Amnistía Internacional, Garantía de acceso al aborto legal en la provincia de Entre Ríos*, at <http://www.amnistia.org.ar/abortolegalenentrieros>

- *Amnistía Internacional, Garantía de acceso al aborto legal en la provincia de Salta*, at <http://www.amnistia.org.ar/abortolegalensalta>

- *Tenemos Derechos, Estrategias para exigir el aborto legal en todo el país*, en <http://www.amnistia.org.ar/noticias-y-documentos/archivo-de-noticias/argentina-135>

- *Deudas en materia de Salud Sexual y Reproductiva*, at <http://compromisopublico.com.ar/petitorio/garantizar-el-derecho-a-la-salud-de-mujeres-y-ninas/>

Urgent Actions

- *Argentina: Condenada a 8 años de prisión por haber sufrido un aborto espontáneo*, June 2016, <http://www.amnistia.org.ar/rau/argentina3>

- *Argentina: Se niega el aborto a una sobreviviente de violación en Argentina*. 11 octubre 2012 (AMR 13/006/2012) <http://www.amnesty.org/es/library/info/AMR13/006/2012/es>

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ARGENTINA

SUBMISSION TO THE UNITED NATIONS COMMITTEE ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

65TH SESSION, 24 OCTOBER-18 NOVEMBER, 2016

Following the presentation, in March 2016, of a summary containing the salient issues of concern involving Argentina documented by Amnesty International, the organization wishes to share with the Committee on the Elimination of All Forms of Discrimination against Women of the United Nations (the CEDAW Committee) this updated report, prior to the seventh periodic review on Argentina.

Amnesty International addresses the concerns regarding the sexual and reproductive health and the violence against women in this report.

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