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**COMPILATION PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15(B) OF THE
ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1**

Argentina

The present report is a compilation of the information contained in the reports of treaty bodies, special procedure, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions on the part of the Office of the High Commissioner for Human Rights (OHCHR) other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. The information included herein has been systematically referenced in endnotes. The periodicity of the review for the first cycle being four years, most of the documents used as reference are dated after 1 January 2004. In the absence of recent information, the latest available reports and documents have also been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty, and/or to a low level of interaction or cooperation with international human rights mechanisms.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations¹

<i>Core universal human rights treaties²</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations/ reservations</i>	<i>Recognition of specific competences of treaty bodies</i>
ICERD	2 Oct. 1968	None	Individual complaints (art. 14): Yes
ICESCR	8 Aug. 1986	Yes ³	-
ICCPR	8 June 1986	Art. 15	Inter-State complaints (art. 41): Yes
ICCPR-OP 1	8 Aug. 1986	None	-
CEDAW	15 July 1985	Art. 29	-
OP-CEDAW	20 Mar. 2007	Yes ⁴	Individual complaints (art. 2): Yes
CAT	24 Sept. 1986	Yes ⁵	Inter-State complaints (art. 21): Yes Individual complaints (art. 22): Yes Inquiry procedure (art. 28): Yes
OP-CAT	15 Nov. 2004	None	-
CRC	4 Dec. 1990	Arts. 1, 21, 24 and 38	-
OP-CRC-AC	10 Sept. 2002	Yes ⁶	-
OP-CRC-SC	25 Sept. 2003	Arts. 2, 3 and 7	-
ICRMW	23 Feb. 2007	Art. 92	Inter-State complaints (art. 76): No Individual complaints (art. 77): No
CED	14 Dec. 2007	-	Individual complaints (art. 31): No Inter-State complaints (art. 32): No

Core treaties to which Argentina is not a party: ICCPR-OP2 (signature only, 2006), CPD (signature only, 2007), OP-CPD (signature only, 2007).

<i>Other main relevant international instruments⁷</i>	<i>Ratification, accession or succession</i>
Convention on the Prevention and Punishment of the Crime of Genocide	Yes
Rome Statute of the International Criminal Court	Yes
Palermo Protocol ⁸	Yes
Refugees and stateless persons ⁹	Yes except 1961 convention
Geneva Conventions of 12 August 1949 and Additional Protocols thereto ¹⁰	Yes, except Protocol III
ILO fundamental conventions ¹¹	Yes
UNESCO Convention against Discrimination in Education	Yes

1. The Committee against Torture (CAT) welcomed the ratification by Argentina of the Rome Statute of the International Criminal Court in February 2001 as well as the ratification of OP-CAT.¹² CRC welcomed the ratification of OP-CRC-AC.¹³

2. CRC reiterated its concern about the reservations entered by the Government of Argentina upon ratification of the Convention with respect to article 21 (b), (c), (d) and (e). The reservations were based on the need for a strict mechanism for intercountry adoption in order to prevent trafficking in and the sale of children. CRC recommended that the State party consider reviewing the reservations with a view to withdrawing them.¹⁴

B. Constitutional and legislative framework

3. A 2004 note by the Secretariat mentioned that, as reported by the Government, article 75 of the Constitution recognizes constitutional hierarchy to international human rights instruments. It also stated that domestic courts ensure that international human rights obligations assumed by the

State are respected. For statutory norms, there exists a constitutional review procedure (*control judicial de constitucionalidad*) adopted by the Supreme Court. In 1992 the Supreme Court established that when deciding on the application of an international treaty, the jurisprudence of the organs entrusted to interpret the treaty should be followed.¹⁵

4. CAT expressed concern at the uneven application of the Convention in the various provinces and at the lack of machinery for accommodating its requirements to the federal structure of the country, despite the fact that the Constitution grants the Convention constitutional status. CAT recalled that the State's international responsibility is borne by the State at the national level even when violations have occurred at the provincial level, and recommended that Argentina's obligations arising from the Convention should always be fulfilled in all provincial courts, with the aim of ensuring uniform application of the Convention throughout the country.¹⁶

5. In 2002, CRC noted that, although the Chamber of Deputies had passed a draft law on the comprehensive protection of the rights of the child in November 2001, it has not yet been enacted (*media sanción*), so that there was no legislation in force at the federal level which considers the child as a subject of rights. Furthermore, the Committee also noted that provincial legislation often does not comply with the provisions and principles of the Convention. The Committee recommended, inter alia, that Argentina take all necessary measures for the adoption by Parliament without delay of the draft law on the comprehensive protection of the rights of the child; to ensure the full implementation of the law once enacted; and to ensure that legislation at provincial level as a whole fully complies with the provisions and principles of the Convention.¹⁷ UNICEF noted that a number of laws have been enacted to provide a national legal framework to guarantee children's rights.¹⁸

6. UNHCR also noted that the domestic legal framework dealing with refugee matters is set out in the new refugee law No. 26.165 of 2006, which established a National Refugee Commission responsible for adjudicating asylum claims and finding durable solutions for refugees.¹⁹ The new law enshrines important protection principles, ranging from those relating to the refugee status determination procedure to those concerning the search for durable solutions for refugees, including local integration and resettlement. UNHCR noted the adoption of the Migration Law (No. 25.871) in 2004 to regulate Argentine migration policies, aiming at integrating foreigners and nationals on an equal footing, guaranteeing foreigners' core rights (for instance, to health and education) and banning all forms of discrimination, racism and xenophobia.²⁰

7. The National Institute for Indigenous Affairs was created in 1985 by Law No. 23.302, aiming at the protection and support of indigenous communities. The constitutional reform of 1994 recognized the ethnic and cultural pre-existence of indigenous people in Argentina and listed the rights derived therefrom.²¹

C. Institutional and human rights infrastructure

8. The national human rights institution, the Defensoría del Pueblo de la Nación Argentina, was accredited with "A" status. This status was reassessed and maintained in October 2006.²²

9. The Committee on the Elimination of Racial Discrimination (CERD) recommended that Argentina strengthen the functioning of the National Institute against Discrimination, reinforce its effectiveness in monitoring all tendencies that may give rise to racist and xenophobic behaviour, and combat all forms of racial discrimination and investigate complaints in this regard.²³

10. In 2002, the Committee on the Rights of the Child (CRC) noted the establishment of the National Council for Children, Adolescents and the Family and the Office for Comprehensive Assistance for Victims of Crime, as recommended in its previous concluding observations,²⁴ and encouraged Argentina to establish an overall national mechanism to monitor the implementation of the Convention.²⁵

D. Policy measures

11. The Committee on the Elimination of Discrimination against Women (CEDAW) called on Argentina to effectively carry out activities for the advancement of women and the promotion of gender equality, and to ensure that gender perspectives are addressed in all policies and programmes.²⁶ CEDAW congratulated Argentina on the social policies and programmes put in place, particularly in the areas of poverty reduction, job creation and access to education, aimed at addressing the consequences of the economic and social crisis experienced since 2001.²⁷ CEDAW further recommended that the State launch a national public awareness campaign on violence against women and increase its efforts to provide gender-sensitive training for public officials, particularly law enforcement personnel, the judiciary and health-service providers.²⁸

12. CERD welcomed the ongoing efforts made by Argentina to elaborate a national plan against discrimination, xenophobia and other forms of intolerance, with the support of UNDP and OHCHR, as a follow-up to the Durban Declaration and Programme of Action.²⁹

13. CRC reiterated two previous recommendations: (a) to adopt a comprehensive approach in implementing the Convention, in particular by improving coordination among the various mechanisms and institutions and by developing a national plan of action;³⁰ (b) to review economic and social policies to ensure that the maximum amount of available resources are allocated to the rights of the child, especially in the fields of health, education, social welfare and security.³¹

14. The Human Rights Committee (HR Committee) welcomed the consolidation of democratic processes and measures taken to promote national reconciliation following the years of military rule. In this regard, the Committee noted with satisfaction the operation of a number of institutions and programmes designed to serve as a channel of redress for victims of past abuses, including the Historical Reparation Programme, the National Commission on the Disappearance of Persons and the National Commission for the Right to an Identity. The HR Committee particularly welcomed the establishment of a mechanism to restore the identity of children who were forcibly removed from their families.³²

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

1. Cooperation with treaty bodies

<i>Treaty body³³</i>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CERD	2004	Aug. 2004	-	Nineteenth and twentieth reports due in Jan. 2008
CESCR	1997	Nov. 1999	-	Third report overdue since 2001 Fourth report overdue since 2006
HR Committee	1998	Oct. 2000	-	Fourth report submitted in 2007
CEDAW	2004	July 2004	-	Sixth report overdue since Feb. 2008
CAT	2002	Nov. 2004	Feb. 2006	Fifth and sixth report due in June 2008
CRC	1999	Sept. 2002	-	Third and fourth report due in Jan. 2008
CRC-OP-AC	-	-	-	Initial report submitted in 2007, to be considered in Jan.-Feb. 2009
CRC-OP-SC	-	-	-	Initial report overdue since 2005
CMW	-	-	-	Initial report due in June 2008

15. CEDAW and CERD welcomed the timely submission of the relevant reports, while CAT noted that the report was received two years late. CRC noted with regret that the report did not follow the guidelines for reporting. While CEDAW expressed its appreciation for Argentina having responded to the concerns raised concerning the fifth periodic report, CERD and CRC regretted that some of the concerns and recommendations made in their respective previous concluding observations have not been addressed.³⁴

2. Cooperation with special procedures

<i>Standing invitation issued</i>	Yes
<i>Latest visits or mission reports</i>	Special Rapporteur on the right to freedom of opinion and expression (25 June - 2 July 2000); ³⁵ Special Rapporteur on freedom of religion or belief (23-30 April 2000); ³⁶ independent expert on the right to development (March 2003) - country studies on the right to development, including Argentina; ³⁷ Working Group on Arbitrary Detention (22 September - 2 October 2003) ³⁸
<i>Visits agreed upon in principle</i>	Working Group on Enforced or Involuntary Disappearances (postponed until 2008); independent expert on the effects of economic reform policies and foreign debt on the full enjoyment of all human rights.
<i>Facilitation/cooperation during missions</i>	The Working Group on Arbitrary Detention expressed its gratitude to the Government after its visit. ³⁹
<i>Follow-up to visits</i>	-
<i>Responses to letters of allegation and urgent appeals</i>	Between 1 January 2004 and 31 December 2007, 29 communications were sent to the Government. In addition to particular groups (e.g. ethnic and religious minorities), these communications concerned 81 individuals, including 24 women. During the same period, Argentina replied to 16 communications (55 per cent).
<i>Responses to questionnaires on thematic issues⁴⁰</i>	Argentina responded to 6 questionnaires of the 12 sent by special procedures mandate-holders ⁴¹ between 1 January 2004 and 31 December 2007, within the deadlines ⁴² .

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

16. For the last 15 years, OHCHR has cooperated with the Government of Argentina in the areas of training and information; development of a national plan against discrimination; training on reporting obligations and the preparation of reports to treaty monitoring bodies and follow-up workshops on the implementation of recommendations; institutional strengthening; protection of economic, social and cultural rights; and training for NGOs, the media and staff of the Defensoría del Pueblo de la Nación.⁴³ OHCHR cooperated with the Argentina Peace Operation Joint Training Centre within the framework of OHCHR cooperation with the Department of Peacekeeping Operations of the Secretariat.⁴⁴

17. The High Commissioner conducted an official mission to Argentina in 2005, during which she also attended the thirty-eighth meeting of Presiding Officers of the Regional Conference on Women in Latin America and the Caribbean, including a meeting to assess progress in Argentina since the 1995 World Conference on Women in Beijing.⁴⁵

B. Implementation of international human rights obligations

1. Equality and non-discrimination

18. CERD regretted the lack of adequate information on complaints regarding acts of racial discrimination, violent racist attacks and acts of police brutality committed on racial grounds.⁴⁶ It expressed concern about incidents of incitement to racial hatred and racist propaganda in the media, including on the Internet, and recommended that Argentina take appropriate measures to combat these phenomena.⁴⁷

19. CEDAW expressed concern at the situation of women resulting from increasing poverty and extreme poverty. It recommended ensuring that women from rural areas participate in decision-making processes and have full access to education, health services and credit facilities.⁴⁸

20. CRC recommended a review of relevant legislation in order to eliminate the disparity between the age of marriage for boys and girls.⁴⁹

21. CRC recommended that Argentina monitor the situation of children who are exposed to discrimination, including children living in poverty, indigenous children, children of migrant workers, children who work or live on the street, children with disabilities and marginalized adolescents.⁵⁰

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

22. In 2004, the Special Representative of the Secretary-General on the situation of human rights defenders drew attention to the killing of a prominent human rights defender and leader of a local social movement.⁵¹ The murder occurred on the second anniversary of the murder of two leaders of the Piqueteros movement. The Government replied that an investigation is under way.⁵²

23. The Special Representative was also concerned at the frequent threats aimed at human rights defenders and lawyers, particularly those involved in cases regarding victims of the military regime and others whose human rights were violated under the former dictatorship.⁵³ The Government stated that investigations are under way.⁵⁴

24. CAT expressed its concern at the many allegations of torture and ill-treatment and at the very small number of convictions for such offences, as well as the unjustifiable delays in the

investigation of cases of torture. The Committee recommended that Argentina take all necessary steps to prevent acts of torture and ill-treatment, and in particular that it carry out prompt, impartial and exhaustive investigations; try and, where appropriate, convict perpetrators; impose appropriate sentences on them and properly compensate the victims. CAT further recommended that Argentina provide training for judicial officials in order to enhance the efficiency of investigations and bring judicial decisions into line with relevant international standards.⁵⁵

25. Both CAT and CRC expressed their concern about reports of torture and ill-treatment of children held at police stations, which, in some cases, have resulted in death.⁵⁶ CAT recommended that the holding of minors in police units be immediately banned, that minors then in police units be transferred to special centres, and that a nationwide ban be imposed on the detention of minors by police personnel.⁵⁷ In 2002, CRC expressed its concern at the fact that, under article 205 of the Code of Criminal Procedure, a child may be held in incommunicado detention for a maximum of 72 hours.⁵⁸

26. CAT and the Working Group on Arbitrary Detention expressed their concern at the high number of persons being held in pretrial detention⁵⁹ and at the excessive length and use of pretrial detention,⁶⁰ and recommended that Argentina consider amending its legislation and practice relating to pretrial detention.

27. CAT made recommendations to Argentina concerning: (a) protecting the integrity of members of all vulnerable groups, including members of the indigenous communities, sexual minorities, women⁶¹ and persons reporting acts of torture and ill-treatment;⁶² (b) full respect for the dignity and human rights of all persons during body searches;⁶³ (c) the establishment of a national prevention machinery with authority to make periodic visits to federal and provincial detention centres for the purpose of fully implementing OP-CAT, and the establishment of effective machinery within the prison system to receive and investigate reports of sexual violence and provide protection and assistance to victims.⁶⁴ CAT also noted with concern that the national register of information from domestic courts on cases of torture and ill-treatment has still not been established and recommended that Argentina organize such a register.⁶⁵

28. On several occasions, the Special Rapporteur on the question of torture expressed his concern over poor prison conditions and the killing, torture and ill-treatment of inmates, resulting from the lack of a security presence and the actions of police and other inmates.⁶⁶ CAT, the HR Committee and the Working Group on Arbitrary Detention raised concerns about the overcrowding and poor physical conditions prevailing in the prisons, and particularly the lack of hygiene, adequate food and appropriate medical care.⁶⁷

29. CRC also noted with concern the poor conditions of children in detention, including the lack of adequate basic services such as education and health, the absence of adequately trained staff, and the use of corporal punishment and isolation.⁶⁸ CRC urged Argentina, inter alia, to enforce the National Plan of Action for the Prevention and Elimination of Institutional Violence.⁶⁹

30. CAT recommended taking the necessary steps to guarantee the principle of separation of convicted and remand prisoners, and of the former and immigrants under expulsion orders.⁷⁰

31. The HR Committee, CEDAW and CESCRC expressed concern about the high incidence of violence against women, including rape, domestic violence and sexual harassment in the workplace. CEDAW was also concerned that perpetrators are often unpunished and requested, inter alia, that consideration be given to enacting a law aimed at combating and eradicating violence against women, ensuring that women have access to protection and effective redress, and ensuring that

perpetrators of such acts are effectively prosecuted and punished. The HR Committee recommended promoting awareness among women of their rights and the remedies available to them.⁷¹

32. CRC welcomed the adoption of Law No. 24.417 on protection against domestic violence and recommended, *inter alia*, that Argentina expressly prohibit corporal punishment in the home and all institutions; that it investigate effectively cases of domestic violence, ill-treatment and abuse of children; and that it increase measures to provide support services to children in legal proceedings, physical and psychological recovery and social reintegration.⁷² UNICEF also noted that the Supreme Court of Justice of the Nation decided to organize under its responsibility the first Office of Domestic Violence.⁷³

33. CRC, while noting that Argentina ratified ILO Conventions No. 138 in 1996 and No. 182 in 2001, expressed deep concern at the growing number of children under 14 who are exploited economically, in particular in rural areas. It recommended that Argentina strengthen its legislation to provide protection for working children, *inter alia* with a view to increasing the minimum age to 15, and that the State continue to develop and ensure the adoption of the National Plan to Prevent and Eradicate Child Labour.⁷⁴

34. CRC noted that, although a National Plan of Action to Combat Commercial Sexual Exploitation of Children was adopted in 2000, coordinated policies and programmes on this issue have yet to be formulated.⁷⁵

3. Administration of justice and the rule of law

35. CAT welcomed efforts to combat impunity in respect of crimes against humanity committed under the military dictatorship, and in particular the promulgation of Act No. 25.779 in September 2003, declaring the “Due Obedience” and “Clean Slate” Acts absolutely null and void, the initiation of a significant number of cases in which such violations are being investigated and the repeal in 2003 of executive decree No. 1581/01, which required the automatic rejection of requests for extradition in cases involving serious and flagrant violations of human rights under the military dictatorship.⁷⁶ The High Commissioner for Human Rights welcomed the ruling, on 14 June 2005, by the Supreme Court of Justice of Argentina invalidating two amnesty laws that shielded military officers from prosecution for crimes allegedly committed during the country’s so-called “Dirty War”.⁷⁷ The HR Committee expressed concern, however, that many persons whose actions were covered by these laws continue to serve in the military or in public office.⁷⁸

36. CRC noted with satisfaction the enactment of the Bill on the Criminal Responsibility of Juveniles, which establishes limits on juvenile criminal responsibility and procedures to be followed. Nevertheless, it reiterated its deep concern that legislation currently in force and based on the doctrine of “irregular situation” does not make a clear distinction between children in need of care and protection and those in conflict with the law. The Committee recommended, *inter alia*, that Argentina review its laws and practices regarding the juvenile justice system, and that it ensure that there is a clear distinction in terms of procedures and treatment between children in conflict with the law and children in need of protection.⁷⁹ The Working Group on Arbitrary Detention recommended particular attention be paid to compliance with the Convention on the Rights of the Child with regard to the practice of arresting and detaining juveniles.⁸⁰

37. UNICEF noted that the National Law on Integrated Protection was enacted to provide, inter alia, for the dismantling of the “protective internment of minors” system (*sistema de patronato de menores*), for the annulment of the Law on the Internment of Minors, and a general prohibition against the institutionalization of minors for the purpose of protection.⁸¹

38. The economic crisis that began in December 2001 led to widespread protests: roads, bridges, railways, underground stations and other public structures were occupied by groups called “*piqueteros*”.⁸² The Working Group on Arbitrary Detention expressed concern that, according to complaints it had received, the security forces usually arrested and detained individuals involved in the protests regardless of whether their actions were carried out in a peaceful or violent manner.⁸³

4. Freedom of expression, association, and the right to participate in public and political life

39. The Special Rapporteur on freedom of opinion and expression, in conjunction with the Special Representative of the Secretary-General on the situation of human rights defenders expressed concern at threats against a journalist who wrote a book in which he disclosed the names of officers who allegedly participated in the assassination, torture and disappearance of dissenters during the former military dictatorship.⁸⁴ Moreover, the Special Rapporteur on the question of torture expressed concern over the police’s use of violence against demonstrators and journalists, and other cases of torture of civilians at the hands of the federal and provincial police.⁸⁵ Likewise, the Special Rapporteur on freedom of opinion and expression, together with other experts, expressed concern regarding police threats or assaults against journalists.⁸⁶ The Government replied that investigations into such acts have been undertaken.⁸⁷

40. CEDAW commended Argentina for its measures to increase the participation of women in public life. It also welcomed the fact that, further to the adoption of the Law on Trade Union Quotas, a woman is now a member of the presiding body of the confederation of labour.⁸⁸

41. The Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on violence against women sent a communication concerning the refusal to guarantee the exercise of the right to freedom of association for transsexuals and transvestites.⁸⁹

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

42. CEDAW expressed concern about the poor working conditions women endure in both the formal and informal sectors of the economy. The Committee urged Argentina to ensure the enforcement of legislation requiring employers to provide equal pay for equal work, as well as efforts to ensure that women receive adequate social benefits and services, and that women can use means of redress without fear of reprisals from employers.⁹⁰

43. UNICEF noted that with regard to the Millennium Development Goals, Argentina has included the promotion of decent working conditions as an additional objective. Indicators include the eradication of child labour, the reduction of unemployment, and the formalization of various unregistered forms of work, including domestic labour.⁹¹

6. Right to social security, to health and to an adequate standard of living

44. CRC noted with concern that the recent economic, political and social crises have caused increased poverty, particularly among children and vulnerable groups, and recommended that Argentina continue its efforts to prevent a decline in the living standards of families.⁹² CRC also

noted that the rates of infant, child and maternal mortality remain high and that there are great disparities in these rates, in particular with regard to children from a lower socio-economic background, those living in rural areas and indigenous children.⁹³ CERD reiterated its concern at the lack of a social security system that takes into account the specific needs of indigenous peoples.⁹⁴

45. On the issue of reproductive health rights, the HR Committee noted with concern that the criminalization of abortion deters medical professionals from providing this procedure without judicial order, even when they are permitted to do so by law. The Committee also expressed concern over discriminatory aspects of the laws and policies in force, which result in disproportionate resort to illegal, unsafe abortions by poor and rural women, and recommended that in cases where abortion may lawfully be performed, all obstacles should be removed. The Committee further requested that the law be amended to permit abortions in all cases of pregnancy resulting from rape.⁹⁵ This matter was also raised by the Special Rapporteur on the right to health in 2007.⁹⁶

46. CEDAW expressed concern about the high pregnancy rate among adolescents, the high rate of maternal mortality⁹⁷, one third of which is caused by illegal abortion, and the increase in sexually transmitted diseases, including HIV/AIDS. The Committee urged Argentina to fully ensure access for women and adolescent girls to health services, including sexual and reproductive health services.⁹⁸

7. Minorities and indigenous peoples

47. While the HR Committee welcomed the devolution of national and provincial land to indigenous communities through the National Registry of Indigenous Communities,⁹⁹ CERD expressed concern about the inadequate protection in practice of indigenous peoples' ownership and possession of ancestral lands and the consequential impairment of their ability to practise their religious beliefs. CERD urged the State to fully implement ILO Convention No. 169.¹⁰⁰

48. A 2005 UNDP report noted that environmental degradation, soil loss, water scarcity, inadequate health care, lack of transport and communication and educational services deficit are among the factors that deprive these indigenous peoples of a decent life.¹⁰¹

49. CERD noted with concern the insufficient information provided by the State on the representation of indigenous peoples and minorities in the civil service, the police, the judicial system, Congress and other public institutions. The Committee took note that the Coordinating Council of Argentinean Indigenous Peoples, envisaged by Act No. 23.302 to represent indigenous peoples in the National Institute of Indigenous Affairs has still not been established.¹⁰²

50. CERD took note with concern of allegations regarding the lack of adequate training provided to indigenous teachers and discrimination faced by them. CERD recommended that Argentina adopt all necessary measures to ensure, in consultation with the indigenous communities, a bilingual and intercultural education for indigenous peoples with full respect for their cultural identity.¹⁰³

8. Migrants, refugees and asylum-seekers

51. CAT and CERD welcomed the promulgation in 2004 of the new Migration Act which, inter alia, criminalizes trafficking in human beings and stipulates that a foreigner may be detained only by a judicial authority. CERD called upon Argentina to enact measures to implement the law without delay.¹⁰⁴

52. CERD urged the State to develop comprehensive policies and allocate adequate resources to prevent, investigate and punish trafficking of migrants, particularly migrant women exploited as sexual workers, as well as to provide assistance and support to victims.¹⁰⁵

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

53. UNICEF noted that the previous Government had shown consistent political will to address the human rights violations that occurred during the 1976-1983 military dictatorship, including the criminal appropriation of babies. The responses presented by Argentina to cases and inquiries from the Inter-American Commission of Human Rights (2003-2007), and the broad recognition granted to human rights organizations such as the Mothers and Grandmothers of the Plaza de Mayo, have all formed part of a sustained policy that is expected to continue with the new Government.¹⁰⁶

54. The Special Representative of the Secretary-General on the situation of human rights defenders commended the Government of Argentina for taking concrete measures and for the overall attention it has devoted to the disappearance in 2006 of a prominent human rights defender.¹⁰⁷

55. CAT, CRC and the HR Committee welcomed the work accomplished by the National Commission for the Right to an Identity, which was entrusted with the task of locating children who disappeared under the military dictatorship.¹⁰⁸

56. CAT, CERD, CEDAW and CRC acknowledged the difficulties encountered by Argentina, especially those of an economic and social nature.¹⁰⁹ Nevertheless, CAT pointed out that no exceptional circumstances of any kind may be invoked to justify torture.¹¹⁰

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

57. On 27 April 2006, Argentina submitted its voluntary pledge in support of its candidacy for membership of the Human Rights Council.¹¹¹

58. CAT recommended that Argentina inform the Committee within a year of the specific steps taken in pursuance of the recommendations concerning the organization of a national register of information, safeguards for the physical integrity of persons belonging to all vulnerable groups, and the establishment of national prevention machinery.¹¹² Argentina provided responses on 2 February 2006, outlining in particular initial efforts and difficulties encountered. In a letter dated 11 May 2007, the Committee's Rapporteur on follow-up requested further clarifications on all matters, which were received by OHCHR on 25 October 2007.

V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

59. Since 2005, under the Action 2 programme of the Secretary-General's reform programme,¹¹³ OHCHR has been working in close collaboration with the United Nations Country Team. OHCHR and UNDP-Argentina supported the capacity of the Secretariat on Human Rights and provided technical and financial support to the National Institute against Discrimination within the Ministry of Justice and Human Rights for the elaboration of a participatory national plan against discrimination.¹¹⁴

Notes

¹ Unless indicated otherwise, the status of ratifications of the instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006* (ST/LEG/SER.E.25), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://untreaty.un.org/>.

² The following abbreviations have been used for this document:

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

³ Declaration concerning the territorial application of the Covenant to the Falkland Islands; see <http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterIV/treaty5.asp>.

⁴ Declaration concerning the territorial application of the Convention to the Falkland Islands; reservation to article 29, CEDAW; see <http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterIV/treaty10.asp>.

⁵ Declaration concerning the territorial application of the Convention to the Falkland Islands; see <http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterIV/treaty14.asp>.

⁶ Declaration; see <http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterIV/treaty21.asp>.

⁷ Information relating to other relevant international human rights instruments, including regional instruments, may be found in the pledges and commitments undertaken by Argentina before the Human Rights Council, as contained in the note verbale dated 27 April 2006 sent by the Permanent Mission of Argentina to the United Nations addressed to the President of the General Assembly, available at <http://www.un.org/ga/60/elect/hrc/argentina.pdf>.

⁸ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

⁹ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

¹⁰ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of

Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at: <http://www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html>.

¹¹ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize; Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

¹² Committee against Torture, conclusions and recommendations, CAT/C/CR/33/1, para. 4.

¹³ Committee on the Rights of the Child, concluding observations, CRC/C/15/Add.187, para. 9.

¹⁴ *Ibid.*, paras. 13 and 14.

¹⁵ See replies to the questionnaire on national protection systems, E/CN.4/2005/126, page 4.

¹⁶ CAT/C/CR/33/1, para. 6 (d) and 7(d), Human Rights Committee, concluding observations, CCPR/CO/70/ARG, para. 8.

¹⁷ CRC/C/15/Add.187, paras. 15 and 16 (a), (b) and (c).

¹⁸ UNICEF submission to the UPR, pp. 2-3

¹⁹ UNHCR submission to the UPR, pp. 1-3. See also Report of the High Commissioner for Human Rights on human rights and mass exodus, A/HRC/4/105.

²⁰ See “Toward a National Plan against Discrimination Diagnosis and proposals” result of a technical cooperation project provided by OHCHR, UNDP to the Government of Argentina (project ARG/02/024).

²¹ *Ibid.*

²² For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/7/69, annex VIII, and A/HRC/7/70, annex I.

²³ Committee on the Elimination of Racial Discrimination, concluding observations, CERD/C/65/CO/1, para. 10.

²⁴ CRC/C/15/Add.187, para. 5.

²⁵ *Ibid.*, paras. 21 and 22.

²⁶ Committee on the Elimination of Discrimination against Women, follow-up report to the fifth periodic report, A/59/38, part II, paras. 369, 370 and 371.

²⁷ *Ibid.*, paras. 367, 372, 373.

²⁸ *Ibid.*, para. 379.

²⁹ CERD/C/65/CO/1, paras. 6 and 12.

³⁰ CRC/C/15/Add.187, paras. 17 and 18.

³¹ *Ibid.*, paras. 19 and 20.

³² CCPR/CO/70/ARG, paras. 4 and 5.

³³ The following abbreviations have been used in this document:

CERD - Committee on the Elimination of Racial Discrimination

CESCR - Committee on Economic, Social and Cultural Rights

HR Committee - Human Rights Committee

CEDAW - Committee on the Elimination of Discrimination against Women

CAT - Committee against Torture

CRC - Committee on the Rights of the Child

CMW - Committee on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

³⁴ CAT/C/CR/33/1, para. 2; A/59/38, part II, paras. 364 and 365; CCPR/CO/70/ARG, para. 2; CERD/C/65/CO/1, para. 4; CRC/C/15/Add.187, paras. 2 and 11; Committee on Economic, Social and Cultural Rights, concluding observations, E/C.12/1/Add.38, para. 2.

³⁵ E/CN.4/2002/75/Add.1.

³⁶ E/CN.4/2002/73/Add.1.

³⁷ E/CN.4/2004/WG.18/3.

³⁸ E/CN.4/2004/3/Add.3.

³⁹ Ibid., para 3.

⁴⁰ The questionnaires included in this section are those which have been reflected in an official report by a special procedure mandate-holder.

⁴¹ See (i) report of the Special Rapporteur on the right to education (A/HRC/4/29), questionnaire on the right to education of persons with disabilities sent in 2006;

(ii) report of the Special Rapporteur on the human rights of migrants (A/HRC/4/24), questionnaire on the impact of certain laws and administrative measures on migrants sent in September 2006;

(iii) report of the Special Rapporteur on the human rights aspects of victims of trafficking in persons, especially women and children (A/HRC/4/23), questionnaire on issues related to forced marriages and trafficking in persons, sent in July 2006;

(iv) report of the Special Representative of the Secretary-General on human rights defenders (E/CN.4/2006/95 and Add.5), questionnaire on the implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms sent in June 2005;

(v) report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/HRC/6/15), questionnaire on the human rights of indigenous peoples sent in August 2007;

(vi) report of the Special Rapporteur on trafficking in persons, especially women and children (E/CN.4/2006/62) and the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2006/67), joint questionnaire on the relationship between trafficking and the demand for commercial sexual exploitation sent in July 2005;

(vii) report of the Special Rapporteur on the right to education (E/CN.4/2006/45), questionnaire on the right to education for girls sent in 2005;

(viii) report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (A/61/341), questionnaire concerning its mandate and activities sent in November 2005;

(ix) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/4/31), questionnaire on the sale of children's organs sent in July 2006;

(x) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2005/78), questionnaire on child pornography on the Internet sent in July 2004;

(xi) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2004/9), questionnaire on the prevention of child sexual exploitation sent in July 2003;

(xii) report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (A/HRC/4/35/Add.3), questionnaire on human rights policies and management practices.

⁴² The questionnaires on the right to education of persons with disabilities (A/HRC/4/29, para. 47); on the impact of certain laws and administrative measures on migrants (A/HRC/4/24); on issues related to forced marriages and trafficking in persons; (A/HRC/4/23, para. 14); on the human rights of indigenous people (A/HRC/32/Add.4); and on the right to education for girls (E/CN.4/2005/45, para. 89).

⁴³ OHCHR Annual Reports 2004, 2005, 2006, 2007 (forthcoming).

⁴⁴ OHCHR Annual Report 2004, pages 184 and 185.

⁴⁵ OHCHR Press release, 6 September 2005.

⁴⁶ CERD/C/65/CO/1, para. 9.

⁴⁷ Ibid., para. 15.

⁴⁸ CEDAW exceptional session, A/57/38, paras. 356 and 357; A/59/38, part II, paras. 364, 365, 376 and 377.

⁴⁹ CRC/C/15/Add.187, paras. 25 and 26.

⁵⁰ Ibid., paras. 29 and 30.

⁵¹ E/CN.4/2005/101/Add.1, para 21 and report of the Special Rapporteur on the right to freedom of opinion and expression, E/CN.4/2005/64/Add.1, para 26.

⁵² E/CN.4/2006/95/Add.1, paras. 18, 19.

⁵³ A/HRC/4/37/Add.1, para. 21.

⁵⁴ Ibid., para. 25

⁵⁵ CAT/C/CR/33/1, paras. 6 (a), (b), (c) and 7 (a), (b), (c).

⁵⁶ Ibid., paras. 6 (f) and 7 (f) and CRC/C/15/Add.187, paras. 36 and 37.

⁵⁷ CAT/C/CR/33/1, para. 7 (g).

⁵⁸ CRC/C/15/Add.187, para. 62.

⁵⁹ CAT/C/CR/33/1, paras. 6 (i) and 7 (i).

⁶⁰ E/CN.4/2004/3/Add.3.para. 64.

⁶¹ CAT/C/CR/33/1, paras. 6 (g) and 7 (g).

⁶² Ibid., paras. 6(k) and 7(k).

⁶³ Ibid., paras. 6 (l) and 7 (l).

⁶⁴ Ibid., para. 7 (o), (p).

⁶⁵ Ibid., paras. 6 (e) and 7 (e).

⁶⁶ E/CN.4/2004/56/Add.1, paras. 62-68.

⁶⁷ CAT/C/CR/33/1, paras. 6 (h) and (m), 7 (h) and (m); CCPR/CO/70/ARG, para. 11; E/CN.4/2004/3/Add.3, para 62.

⁶⁸ CRC/C/15/Add.187, paras. 62 and 63.

⁶⁹ Ibid., para. 37 (b).

⁷⁰ CAT/C/CR/33/1, paras. 6 (j) and 7 (j).

⁷¹ CCPR/CO/70/ARG, para. 15; A/59/38, part II, paras. 378 and 379; E/C.12/1/Add.38, para. 25.

⁷² CRC/C/15/Add.187, paras. 4, 38, 39, 44 and 45.

⁷³ UNICEF submission to the UPR, page 4.

⁷⁴ CRC/C/15/Add.187, paras. 7, 58 and 59. See also report of the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children, A/HRC/4/23/Add.1, paras. 18 and 33.

⁷⁵ CRC/C/15/Add.187, paras. 8, 60 and 61.

- ⁷⁶ CAT/C/CR/33/1, para. 3.
- ⁷⁷ United Nations press release, “High Commissioner for human rights welcomes Argentine court decision to repeal amnesty laws”, 16 June 2005.
- ⁷⁸ CCPR/CO/70/ARG, para. 9.
- ⁷⁹ CRC/C/15/Add.187, paras. 62 and 63.
- ⁸⁰ E/CN.4/2004/3/Add.3, para 69.
- ⁸¹ UNICEF submission to the UPR, pp. 2-3.
- ⁸² E/CN.4/2004/3/Add.3, para 49.
- ⁸³ Ibid., para. 50.
- ⁸⁴ A/HRC/4/27/Add.1, para. 26.
- ⁸⁵ E/CN.4 /2005/62/Add.1, para. 94.
- ⁸⁶ E/CN.4/2005/64/Add.1, paras. 26-32.
- ⁸⁷ Ibid., para. 29.
- ⁸⁸ A/59/38, part II, para. 368.
- ⁸⁹ A/HRC/4/37/Add.1, paras. 24 and 29.
- ⁹⁰ A/57/38, paras. 358 and 359 and A/59/38, part II, paras. 374 and 375.
- ⁹¹ UNICEF Submission to the UPR, p.2.
- ⁹² CRC/C/15/Add.187, paras. 19, 54 and 55.
- ⁹³ Ibid., paras. 46 and 47.
- ⁹⁴ CERD/C/65/CO/1, para. 20.
- ⁹⁵ CCPR/CO/70/ARG, para. 14.
- ⁹⁶ A/HRC/4/28/Add.1, para. 6-8.
- ⁹⁷ CESCR was also concerned about the relatively high maternal mortality rate, and the high adolescent pregnancy figures, see E/C.12/1/Add.38, para. 24. See also UNICEF, Submission to the UPR, page. 2.
- ⁹⁸ A/57/38, paras. 360 and 361 and A/59/38, part II, paras. 380 and 381. See also report of the Special Rapporteur on the right to health, A/HRC/4/28/Add.1, paras. 6 and 8.
- ⁹⁹ CCPR/CO/70/ARG, para. 7.
- ¹⁰⁰ CERD/C/65/CO/1, para. 16; ILO Convention No. 169 (1989) on Indigenous and Tribal Peoples; report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, A/HRC/6/15/Add.1, paras. 11-24.
- ¹⁰¹ UNDP, “*Argentina Después de la Crisis - Un Tiempo de Oportunidades*”, *Informe de Desarrollo Humano 2005*, page 83, available at: <http://hdr.undp.org/en/reports/nationalreports/latinamericathecaribbean/argentina/name,3388,en.html> (accessed on 20 February 2008).
- ¹⁰² CERD/C/65/CO/1, paras. 17 and 18.
- ¹⁰³ Ibid., para. 19.
- ¹⁰⁴ CAT/C/CR/33/1, para. 4; CERD/C/65/CO/1, paras. 5 and 11.
- ¹⁰⁵ CERD/C/65/CO/1, para. 14.
- ¹⁰⁶ UNICEF submission to the UPR, p. 2.
- ¹⁰⁷ A/HRC/4/37/Add.1, para. 28.
- ¹⁰⁸ CAT/C/CR/33/1, para. 4 (d); CRC/C/15/Add.187, paras. 34 and 35; and CCPR/CO/70/ARG, paras. 4 and 5.
- ¹⁰⁹ CERD/C/65/CO/1, para. 3, A/59/38, part II, para. 366 and CRC/C/15/Add.187, para. 10.

¹¹⁰ CAT/C/CR/33/1, para. 5.

¹¹¹ See <http://www.un.org/ga/60/elect/hrc/argentina.pdf>.

¹¹² CAT/C/CR/33/1, para. 7.

¹¹³ Action 2 forms part of the initiatives of the United Nations system of the Second Reform Programme of the former Secretary-General. The Global Programme is an inter-agency initiative developed to support human rights activities at the country level. The programme brings together 20 United Nations agencies and departments to provide coordinated support for building the capacity of United Nations Country Teams, so that they can better respond to demands of Member States in establishing and strengthening national protection systems, OHCHR Annual Report 2006, page 21.

¹¹⁴ OHCHR Annual Report 2004, 2005, 2006 and 2007 (forthcoming).
