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Summary record of the 3282nd meeting

Held at the Palais Wilson, Geneva, on Thursday, 30 June 2016, at 10 a.m.

Chair: Ms. Seibert-Fohr (Vice-Chair)

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In the absence of Mr. Salvioli (Chair), Ms. Seibert-Fohr (Vice-Chair) took the Chair.

The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

*Fifth periodic report of Argentina (continued) (CCPR/C/ARG/5;
CCPR/C/ARG/QPR/5)*

1. *At the invitation of the Chair, the delegation of Argentina took places at the Committee table.*
2. **Mr. Avruj** (Argentina) said that the Government had established a programme to combat institutional violence and resolve conflicts in vulnerable sectors, a special unit to promote tolerance for sexual diversity and another to foster pluralism and multiculturalism, a policy on matters of interest to indigenous peoples, and a national unit for civic culture and human rights training. The remembrance, truth and justice policy remained high on the human rights agenda. The delegation was pleased to note that the Association of Grandmothers of the Plaza de Mayo had found its 120th child. The Government continued to provide funding to the Association of Grandmothers of the Plaza de Mayo, with the subsidy for 2016 amounting to 17 million pesos, and, at the end of the following month, the President of the Association of Grandmothers of the Plaza de Mayo would be presented with an award in recognition of the Association's work. The staff of the Argentine Forensic Anthropology Team (EAAF) had not been reduced, and it would continue to operate, soon in newly completed premises. The genetic database was maintained and operated in line with the law. On 10 December 2015, the Government had endorsed the decision to continue the work of the National Commission on the Right to an Identity, and the Commission's staffing table had been increased by 10 per cent.
3. As to the reparatory laws, the Government was working to clear the backlog of cases that had built up over the previous few years. The Dr. Fernando Ulloa Assistance Centre for Victims of Human Rights Violations had been set up as part of the reparations process, and efforts were being made to improve the efficiency of the justice system with a view to avoiding delays. The Ministry of Defence was working closely with the Human Rights Secretariat in that connection. The National Memory Archives would serve as the depository for the declassified files received from the United States, the Vatican and the United Nations Educational, Scientific and Cultural Organization (UNESCO).
4. While the use of taser guns by the Buenos Aires metropolitan police had been authorized by the courts, they had never been purchased and were not part of the equipment supplied to that police force. The use of electroconvulsive therapy in psychiatric hospitals was prohibited unless it had been recommended in writing by a doctor.
5. **Ms. Quinteros** (Argentina) said that the Committee's comments in respect of *González v. Argentina* (CCPR/C/101/D/1458/2006) had been noted, and Ramona Rosa González, the mother of Roberto Castañeda González, had been compensated by the Province of Mendoza. The Committee's comments in respect of *V.D.R. v. Argentina* (CCPR/C/101/D/1608/2007) had also been noted; the victim had been awarded pecuniary compensation and a public apology had been made.
6. **Mr. Szuchet** (Argentina) said that there was a decree that set out the rules governing the interception of aircraft and that a bill in line with international standards was in preparation. Regarding the question dealing with identity checks, if the Committee had been referring to the action of the High Court in the Lucas Vera case, it should be noted that the highest court in the Autonomous City of Buenos Aires had ruled that an identity check

could be conducted only if there were reasonable grounds for doing so and had upheld the principle of proportionality.

7. All the Solano, Casco, Tapia, Cabello, Arruga, Bugatto and Sepúlveda cases were being processed by the judicial system. The Human Rights Secretariat was a complainant in the Casco case; the defendant in the Cabello case, Ricardo Ayala, had been arrested and was in custody; and the defendant in the Bugatto case had been sentenced to 14 years in prison. The director of the National Programme for the Protection of Witnesses and Defendants was highly qualified and experienced, and his appointment should not be a cause for concern with regard to the continuity of the remembrance, truth and justice process.

8. **Mr. Schapira** (Argentina) said that the new Government did not tolerate any form of torture, including electroconvulsive therapy and waterboarding, and that persons who inflicted torture were prosecuted. It was not the case that electroconvulsive therapy would be reintroduced in the Province of Jujuy, and he would like to know the source of that misinformation. In response to the large number of reported cases of torture, a state of emergency had been declared in the prison system, and the Ministry of Security had recently established a unit to investigate the causes of institutional violence.

9. **Mr. Vitolo** (Argentina) said that the delegation shared Ms. Cleveland's concerns regarding the Belén case, which was still being processed. The National Council of Women, which was a government agency, had become involved in the case and had emphasized that the treatment of Belén could prove to constitute both an offence under national law and a violation of the international obligations of Argentina to prevent violence against women and cruel, inhuman and degrading treatment. The Council had demanded that Belén should be immediately released. The authorities of the Province of Tucumán had provided her with legal representation until such time as she had appointed her own counsel. The Chamber of Deputies, which had also become involved in the case, had met with Juan Méndes, Special Rapporteur on torture, one month previously, and a public hearing had been conducted with various civil society organizations. Her sentence would be referred to the Court of Cassation.

10. **Mr. Vardzelashvili** said that it would be helpful to know how frequently the courts granted bail or used other alternatives to pretrial detention. With regard to paragraph 14 of the list of issues, it was encouraging to learn that the State party had adopted the Mental Health Act, planned to provide community-based health services and had established that persons suffering from mental disorders were to be institutionalized only as a last resort. The Committee had been informed that a national review board had been established to monitor the implementation of the plan and the situation in psychiatric hospitals and that a team of lawyers had been established to handle any complaints that were received. Despite the progress made, however, commitment to a psychiatric hospital seemed to be the default measure taken to treat persons with mental disorders, and less coercive alternatives were rarely considered. He would appreciate an update on the practical steps being taken to improve the situation and would like to know whether the State party intended to provide additional funding for the implementation of the plan, since it could well involve substantial institutional reforms, additional recruitment and so forth. Two human rights organizations had reportedly taken judicial action against a psychiatric hospital in La Plata at which many patients had died. What had been the outcome of those actions? Were investigations of such incidents mandatory, how many had taken place, and what had their conclusions been? It would also be helpful to know how many persons were living in psychiatric hospitals, how many persons had died in such hospitals during the reporting period and whether involuntarily hospitalized persons had the right to request periodic judicial reviews of their hospitalization.

11. With reference to paragraph 20 of the list of issues, the Committee had previously expressed concern at the fact that the State party's judicial system lacked mechanisms which could be used by a person convicted of a crime to have his or her conviction and sentence reviewed by a higher tribunal (CCPR/C/ARG/CO/4). He would like clarification about what was known as the procedure of extraordinary federal appeal. Was the Supreme Court free to decide whether or not to accept a cassation appeal against the verdict of a court of second instance or was the acceptance of the appeal guaranteed? It had been established by the Supreme Court decision of 2005 in the Casal case that courts of cassation should undertake a broad and full review of a judgment on appeal rather than restricting the scope of their review solely to points of law. That decision had not, however, precluded the Supreme Court judgment of 2014 regarding the right to have an initial verdict reviewed, which had followed the case law established by the Inter-American Court of Human Rights in *Mohamed v. Argentina*. What were the main differences between the standards established by the Supreme Court judgments of 2005 and 2014? How had the law or practice changed during that period?

12. The replies to the questions raised in paragraph 21 appeared to indicate that the systems of investigation and prosecution used by the country's prosecution services varied from province to province. The State party had acknowledged that the system in place in the Province of Entre Ríos ensured that the Public Prosecution Service there enjoyed a high degree of independence. Were there any plans to apply that system to the rest of the country? It would also be helpful for the delegation to comment on the disparities that reportedly existed in some provinces, in particular the Province of Buenos Aires, between the amounts of funding provided for the Public Defender's Office and for the Public Prosecution Service.

13. **Mr. Rodríguez-Rescia** said that the delegation was to be commended for having provided very specific responses to the Committee's questions. With regard to paragraph 15 on the list of issues, the Committee would like to know whether the excellent system in place to provide access to justice in the Province of Buenos Aires was being replicated in other provinces. The Committee had received information that contradicted the claim made in the State party's report that prison overcrowding was not a problem. If it were not a problem, why were some persons held in pretrial detention at police stations? Were there plans to ban the use of police stations as places of pretrial detention? According to official statistics, only 38 per cent of the persons being held in prisons had been convicted and sentenced. The Committee would therefore like to know whether the State party was considering promoting the use of alternatives to pretrial detention. The State party had not provided information on Unit No. 1 of Lisandro Olmos Prison in its report, and the Committee would like to know what was being done to improve conditions at that detention facility.

14. With reference to paragraph 16 of the list of issues, it would be helpful to know whether prisoners' access to medical facilities was considered a right or a privilege. Were medical services independent from the prison system? The Strategic Plan 2012-2015 made mention of a law that was to bring about a fundamental shift in the concept of the purpose that prisons were intended to serve. What was the relationship between that plan and the emergency plan that was in place? Would the Strategic Plan 2012-2015 be replaced or updated? The Committee was aware that the mortality rate in places of detention was quite high. In the Buenos Aires prison system, for example, many prisoners had reportedly died of tuberculosis. It would be helpful to have statistics on the number of natural and unnatural deaths that had occurred in places of detention and to know what measures were being taken to lower the mortality rate. The death of one inmate at Barker Penal Facility No. 37, for example, had allegedly been due to a case of inadequately treated tuberculosis.

15. The State party was to be commended for using the latest early warning technology to detect disturbances in prisons. Would that system continue to be used? It seemed that more could nevertheless be done to prevent violent incidents. In answer to a question posed earlier by the delegation about the source of information cited by a Committee member the previous day, the report that electroshock therapy had been approved as a treatment for persons with mental disorders in Jujuy Province had been published in the press.

16. **Mr. Bouzid** said that, with regard to paragraph 17 of the list of issues, he would like to know what progress had been made towards discovering the whereabouts of Jorge Julio López. He wondered whether the necessary funding was provided for the implementation of witness protection laws and whether the National Programme for the Protection of Witnesses and Defendants covered witnesses who were in detention facilities. Further information would be appreciated on protection measures for judges and lawyers involved in cases of crimes against humanity dating from the military dictatorship.

17. In relation to paragraph 18 of the list of issues, he wished to learn what steps had been taken to speed up the judicial proceedings instituted against persons suspected of having committed serious human rights violations during the military dictatorship. Could the delegation provide information on the number of persons charged, prosecuted and punished for such crimes since March 2010? He would appreciate hearing the delegation's comments on reports concerning delays in the proceedings related to crimes against humanity, especially those involving prominent figures in the public, private and judicial sectors. The failure to set up an interparliamentary committee to identify financial entities that had cooperated with the dictatorship was a cause of concern, as was the shortage of judges. What steps was the State party taking to remedy those situations? While some of the judicial reform measures that had been adopted were commendable, he would like to know what the current composition of the Council of the Magistrature was and how many of its members had been appointed by the executive branch. What measures relating to the election of judges, university professors and lawyers had been taken further to the Supreme Court's decision that certain provisions of Act No. 26.855 and Decree No. 577/13 were unconstitutional?

18. The report contained scant information on the topics dealt with in paragraph 26 of the list of issues, and he would like to learn more about the follow-up to the six cases of discrimination against persons of African descent registered by the National Institute to Combat Discrimination, Xenophobia and Racism. How did the Government plan to address issues raised by the Special Rapporteur on contemporary forms of slavery, such as the need to scale up the development of judicial and institutional measures on behalf of people of African descent and indigenous communities and to speed up implementation of the property protection system? It appeared that the availability of schooling in indigenous languages was limited owing to a shortage of appropriate teachers. Were steps being taken to address that situation? There had been reports of the persecution of certain indigenous leaders and of reprisals being taken against them by police officers and other officials. He wondered whether an impact assessment of the National Plan against Discrimination had been carried out. Information would also be appreciated on the number of people of African descent in the State party, the measures taken to assist that population and the impact of those measures.

19. **Ms. Jelić** said that the number of persons with disabilities who were actually employed was apparently five times lower than the minimum quota for the employment of such persons established by law, and she therefore wished to know whether any measures had been developed to increase the number of persons with disabilities in the workplace.

20. With regard to paragraphs 22 and 23 of the list of issues, she would appreciate detailed information on the rights of juvenile offenders under Decision No. 991/2009. She would welcome statistics on the number of adolescents and young people deprived of their

liberty over the previous five years, the number held in closed centres and the duration of their detention. She wondered whether the legal defence afforded to adolescents in the juvenile criminal legal system was provided free of charge. Information would also be appreciated on the assessments conducted by the Commission for Oversight of the Institutional Treatment of Children and Adolescents of the general conditions of accommodation for children and adolescents in various institutions around the country and on any measures adopted in order to improve that situation. What was done to protect, promote and ensure the restoration of the rights of children and how was information on the rights of children disseminated?

21. Regarding paragraph 23 of the list of issues, she would like to know what was being done to address the concerns that had been raised about violations of audiovisual property rights following the introduction in late 2015 of three decrees that had reportedly nullified the Audio-visual Communications Services Act (No. 26.522). Did the current laws on audiovisual services comply with international standards? Further information would be appreciated on the provisions of the bill on access to public information that specified what the agency would be responsible for implementing that legislation if it was passed into law and on the provisions that dealt with the means to be employed to ensure its independence. Further information on the Office of the Ombudsman for Audiovisual Communication Services, particularly with respect to its mandate and the results of its work to date, would be welcome.

22. **Ms. Pazartzis** said that, with regard to paragraph 24 of the list of issues and the recommendation made by the Special Rapporteur on the rights of indigenous peoples to the effect that the Government should “make greater efforts to implement the human rights of indigenous peoples at both the federal and provincial levels”, she would like to know what accounted for the delays in completing land surveys and demarcating the land of indigenous peoples, providing survey documents to indigenous peoples and issuing land titles. In Salta Province, for example, although the land rights of the peoples represented by the Lhaka Honat Aboriginal Communities Association had been recognized long ago, the demarcation of their land had yet to be completed, and she therefore wished to know when the title to those lands would be issued to those communities. In the light of reports that, despite the passage of Act No. 26.160, which had been introduced as an emergency measure to suspend evictions of indigenous persons from their land while surveys were carried out, provincial courts had not taken indigenous peoples’ rights into consideration and had in fact ordered evictions and allowed development projects to go forward on those lands. She would therefore like to know what measures had been taken to ensure indigenous people’s access to justice. She also would like to know whether there were any mechanisms available to indigenous peoples wishing to seek reparation for the harm done to them as a result of evictions or the failure to provide title to their territories in a timely manner. In addition, information would be welcome on what was being done to prosecute private individuals or public officials for assaulting indigenous persons, particularly chiefs, who tried to claim their rights. She would appreciate comments on reports of criminal investigations initiated against indigenous leaders in an attempt to intimidate indigenous communities and prevent them from claiming their rights.

23. With reference to paragraph 25 of the list of issues, she would be interested to hear the delegation’s comments on the reported lack of the necessary implementing legislation to uphold the right to prior consultation and the lack of a legally established procedure for conducting transparent consultations with indigenous peoples regarding development projects that could affect them. She would like to know how consultative bodies were established and how the representative participation of indigenous peoples within those frameworks was ensured. Lastly, what was the status of the Civil Code reform bill and had the indigenous community been consulted with regard to those of its aspects that had a bearing on its members’ rights?

24. **Mr. de Frouville** said that he was concerned about the faltering pace of investigations into crimes against humanity committed during the military dictatorship. Despite the Government's commitment to ensure truth, justice and reparation, budget and staff cuts had been made and a former military official had been appointed to head up the National Programme for the Protection of Witnesses and Defendants. A firm commitment that was expressed in quantifiable terms was required in order to re-open investigations into past crimes against humanity. He would also like further details on the resurgence of cases of enforced disappearance, which, while certainly not occurring on anything like the same scale as they had during the dictatorship, should be exhaustively investigated.

25. With regard to paragraph 7 of the list of issues, he had noted that the State party itself had said that 23 per cent of maternal deaths were associated with clandestine abortions and that it was willing to enact a new law that would increase the range of exceptions to the prohibition of abortion. There were, however, two main problems. First, there was resistance even to the existing law, with one of the main manifestations being so-called "conscientious objection" by medical personnel. Second, there were a number of obstacles that limited women's access to non-punishable abortions. He would be interested to learn what the State party was doing to remove those obstacles and to stop the stigmatization of women who resorted to illegal abortions. He would also like to know whether a study had been carried out to demonstrate that an expansion of the list of exceptions to the prohibition of abortion would actually lead to a reduction in maternal deaths. In order to ensure the effectiveness of such an amendment, it would first be necessary to compile disaggregated statistics on abortion-related deaths in order to ensure that the reasons that had driven those women to have recourse to illegal abortions would be covered by the list of exceptions.

26. **Ms. Cleveland** said that, while applauding the State party for its recognition of the serious human rights abuses involved in the Belén case, she wondered why Belén had nevertheless been left in jail for two years before going to trial and why bail had not been granted. Would that decision be expeditiously revisited? Why had it taken so long for the authorities to engage in the case? She wished to know what corrective measures were planned with respect to the governmental actors involved and whether the Government might refer a case of judicial complicity in respect of the violations in question to the appropriate authorities. It would be important for the Committee to learn how the Government planned to prevent similar cases from arising in the future.

27. In view of the fact that Supreme Court statistics showed that 235 femicides had occurred in 2015, which was a 4.2 per cent increase over the previous year, she wished to know what systemic public policy the Government planned to develop in order to address the problem. As the courts apparently often applied lesser criminal charges and penalties for acts of torture, she would like to know whether a mechanism was in place for challenging judicial decisions that did not impose appropriate punishments and, if so, whether the delegation could provide examples.

28. **Sir Nigel Rodley** said that he would like detailed information on the status of the Bugatto case. He gathered that the case was under appeal. Was Lautaro Bugatto serving his sentence or was he at liberty pending appeal? If at liberty, was he still serving in the security forces? Nothing more had appeared to be done in the case of Franco Casco, and he understood that the people charged in the Gabriel Solano case had been released pending trial and that some of them had rejoined the police force. The underlying question in relation to all the cases mentioned earlier that morning was at what stage in the proceedings each was. Explanations as to why those proceedings had been so protracted, where that had been the case, would also be welcome.

The meeting was suspended at 11.30 a.m. and resumed at 11.45 a.m.

29. **Mr. Avruj** (Argentina) said that he wished to dispel any remaining doubts about the fact that the new Administration was firmly committed to expanding its human rights agenda and to continuing to strengthen the policies of State of preserving memory, upholding the truth and ensuring that justice prevailed.

30. The Governor of the Province of Jujuy had rejected the policy on the use of electroshock therapy that had been proposed by the Secretary of Health of that province and had pledged to ensure that the provincial mental health services became registered users of the National Mental Health Plan management tool. The Human Rights Office of the Central Bank of Argentina had not been dismantled; rather, its activities were being redefined in order to align them with the work of the Human Rights Secretariat.

31. According to the latest data, which were from 2010, 0.4 per cent of the population was of African descent. That segment of the population was composed of persons who fell into three categories: those who had arrived as part of the slave trade during the colonial era; those who had immigrated from Uruguay and Peru in the 1960s; and those who were part of a more recent wave of immigrants, primarily from Senegal. The Government had indeed been slow to adopt a human rights policy applying to persons of African descent in Argentina. The Human Rights Secretariat was drawing on the recommendations of international bodies, including the Human Rights Committee, as it worked to promote the country's general policies on multiculturalism and pluralism and their application to people of African descent. The President had signed a decree concerning the observance by Argentina of the International Decade for People of African Descent, and the Secretariat planned to organize round tables for people of African descent in Argentina in order to discuss such topics as inclusion, elimination of prejudice, employment and the promotion of rights.

32. The efforts of the Human Rights Secretariat to redirect the work of the National Institute of Indigenous Affairs from a social assistance-based orientation to a rights-based approach represented a paradigm shift and focused on the rights of indigenous peoples as subjects of law and on their involvement in decision-making on matters concerning them. The main difference between the former Council on Indigenous Participation and the newly established Advisory and Participatory Council of the Indigenous Peoples of Argentina was that the former had been attached to the National Institute of Indigenous Affairs, whereas the latter, which would begin its operations in July 2016, answered directly to the Human Rights Secretariat. Written information concerning updated census data and surveys of indigenous community property would be provided to the Committee in due course.

33. The Community Strengthening and Access to Justice Programme would continue to provide legal services to indigenous communities throughout the country. Its professional staff worked to defend indigenous people who had been the victim of such offences as theft, weapons abuse and aggression. The Human Rights Secretariat was working in close cooperation with Mr. Félix Díaz, the leader of the La Primavera indigenous community, to implement the precautionary measures requested by the Inter-American Commission on Human Rights in respect of that community. On 7 July 2016, it would once again meet with him in Formosa to discuss the extension of those measures.

34. **Mr. Schapira** (Argentina) said that the territory concerned in the La Cajonal case comprised 600,000 hectares, which, pursuant to a judgment handed down by the Inter-American Court of Human Rights, was to be divided into two parts: 400,000 hectares for the indigenous communities and 200,000 for the rural Creole population. The decision meant that the Government would have the difficult task of moving the Creole population to another part of the land now shared by the two communities in order to provide the indigenous population with adjoining tracts of land. The Under-Secretary for the Protection of Human Rights had held meetings with the petitioners in the Province of Salta to discuss the implementation of the judgment, which would involve major infrastructure works and

the delimitation, titling and registration of the tracts of land concerned. The Government was committed to fully implementing the judgment.

35. **Mr. Bertoni** (Argentina) said that the Office of the Ombudsman for Audiovisual Communication Services was an independent body whose establishment was provided for in the Audio-visual Communications Services Act (No. 26.522). Members of the judiciary from all over the country had recently participated in a videoconference with the Ombudsman's Office on the subject of violence in the media, and the Office had published various guides on responsible journalism.

36. Although the Constitution provided for the right of access to public information, various attempts in the past to formulate a specific federal law on that right had failed, and Argentina lagged behind other countries in the region in that regard. At the initiative of the President, a bill on access to public information had been submitted to Congress which provided for the establishment of an implementing authority with functional independence within the executive branch. Its director would be appointed by the President by means of an open, public and transparent selection process and could be removed by the President, subject to national congressional approval.

37. At the beginning of his term of office, the President had issued three emergency decrees which would require congressional approval in order to remain in force. Neither the Audio-visual Communications Services Act (No. 26.522) nor the Argentina Digital Act (No. 27.078) had been abrogated; both were still in effect. Rather, the emergency decrees, one of which had already been approved by Congress, had resulted in their partial amendment. The purposes of the decrees were to ensure the proper implementation of those two laws, in particular with regard to making new technologies and services available, periodically updating regulatory frameworks to reflect technological advances, issuing licenses and processing administrative requests. In keeping with the Committee's general comment No. 34, Decree 267/15 provided for the independence of the national implementing authority, which was attached to the Ministry of Communications and was under the supervision of the National Comptroller's Office and the National Auditor's Office.

38. **Mr. Luis de Martini** (Argentina) said that a host of other problems had led to the declaration of a state of emergency in the Buenos Aires Prison Service. A special board composed of all relevant stakeholders had been set up in the context of the precautionary measures requested by the Inter-American Commission on Human Rights and had been tasked with developing a plan for overhauling the entire prison system. The board would be formulating programmes to address such issues as health, nutrition, conditions of detention, prevention of torture, and the use of pretrial detention and alternatives to imprisonment. In its efforts to address the crisis, the Government had sought international assistance from the Human Rights Council Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and from the Inter-American Commission on Human Rights Rapporteurship on the rights of persons deprived of liberty.

39. Pretrial detention was used only as a last resort. Decisions as to whether or not to remand someone in custody were not based on the seriousness of the alleged offence but rather on a determination as to whether failing to hold a suspect who was awaiting trial posed a procedural risk in terms of the obstruction of justice or the possibility that the suspect would abscond. As part of the Justice 2020 Programme, special projects were being developed in order to improve the reliability of alternatives to imprisonment, such as the use of electronic bracelets or house arrest.

40. The Council of the Judiciary, which was responsible for appointing and dismissing judges, was, by law, composed of prescribed numbers of representatives of the executive, judicial and legislative branches and of lawyers and academics. Its composition had been declared unconstitutional by a federal court, which had recalled the need for balanced

representation among the various categories of Council members and their non-politicization.

41. The entire content of the Argentine legal information website was available for consultation, and a new website had been set up by the Ministry of Justice and Human Rights, known as *Voces por la Justicia* (Voices for Justice), which was accessible to the general public, civil society organizations and academic establishments.

42. The Constitution expressly provided for the functional autonomy and financial independence of the public defender system. The provinces had the power to organize their own institutions; consequently, the public defender service was attached to the judiciary in some provinces, while in others it was not. However, that did not affect the functional autonomy of the services in any way. The Justice 2020 Programme provided for the federal government to work with the provinces to introduce an adversarial system that would replace the previous inquisitorial system. The adversarial system, which was more conducive to the protection of human rights, required the allocation of more funding. The new Public Defence Service Act (No. 27.149) had been submitted to Congress together with the new Criminal Code for approval.

43. Under articles 309 and 311 of the new Code of Criminal Procedure, all convictions could be reviewed. The provisions on the remedy of appeal were consistent with the principles laid down by the Committee in its general comment No. 32 (CCPR/C/GC/32). The Supreme Court had addressed the problem created by the provisions of the former Code in the Casal ruling, which had required a broad review of the judgment to be conducted in cassation, in accordance with article 8 (2) (h) of the American Convention on Human Rights and article 14 (5) of the Covenant. Such reviews were to address not only points of law but also the facts and evidence in the case. That doctrine had been applied by all provincial courts. The Supreme Court had taken international standards into account in developing its ruling, including the Committee's Views on communication No. 701/1996 (*Cesario Gómez Vázquez v. Spain*) and the jurisprudence of the Inter-American Court of Human Rights in *Herrera Ulloa v. Costa Rica*.

44. In addition, the Supreme Court had recognized the right to have a conviction at first instance reviewed in the Duarte, Felicia case. In that case it had drawn on the jurisprudence of the Inter-American Court of Human Rights in *Mohamed v. Argentina*. Each province was entitled to adopt its own procedures, but they had to be consistent with the Constitution and international treaties, in particular article 8 (2) (h) of the American Convention on Human Rights and article 14 (5) of the Covenant.

45. **Mr. Szuchet** (Argentina) said that the Bugatto case was being heard on appeal before the Supreme Court of the Province of Buenos Aires. The accused, Mr. Benítez, was in custody and had been dismissed from the security forces.

46. **Ms. Quinteros** (Argentina), replying to a question concerning article 8 of Act No. 22.431, which required State agencies and enterprises to hire a minimum quota of 4 per cent of persons with disabilities, said that the quota was a preliminary target and would, in all likelihood, be increased in due course. The quota had already been exceeded by the National Institute to Combat Discrimination, Xenophobia and Racism, the Argentine Naval Prefecture, the National University of La Matanza, the National Geographic Institute, the Ministry of Culture and other bodies. It had also been met by the Federal Administration of Public Revenue, the Argentine Navy, the National Social Security Administration and the Ministry of Labour.

47. The goals of the National Sexual Health and Responsible Parenthood Programme were to reduce maternal mortality, to prevent unwanted pregnancies, to promote the sexual health of adolescents, to support the detection and prevention of sexually transmitted diseases and to guarantee access for the general public to information concerning

contraceptive methods. Pursuant to Act No. 25.633, national hospitals, social insurance schemes and providers of prepaid medical services were required to cover the cost of oral contraceptives, intrauterine devices, and emergency hormonal and surgical contraceptives.

48. **Mr. Muhumuza** said that he had some doubt as to the accuracy of the estimate that only 0.4 per cent of the Argentine population was of African descent. He wondered whether some people were reluctant to identify themselves as Afro-descendants for fear of stigmatization. He was referring to the community whose ancestors had been victims of the slave trade, not to recent immigrants from Senegal. Were there any affirmative action programmes for Afro-descendants?

49. **Mr. Rodríguez-Rescia** said that he would like to know how the autonomy and financial independence of public defenders' offices were guaranteed under the reformed criminal justice system. He noted that the defence and prosecution systems at both the national and the provincial levels were still quite complex. He was concerned that, while progress had been made in the reform of the juvenile criminal justice system, on the one hand, regressive measures were also being introduced, on the other, such as in the case of the bill regarding a code of criminal procedure for the juvenile justice system under consideration in the Province of Santa Fe. He therefore wished to know what efforts were being made to frame legislation that would ensure compliance with standards of legality, pluralism and diversity and that would help to avert undue concentration in the communications market.

50. Several public defenders' offices had compiled lists of victims of torture. However, the fact that relatively few persons had been sentenced for having committed acts of torture implied that there was still a disturbing degree of impunity. Apparently, persons who had committed the offence of torture were often charged with lesser crimes, such as ill-treatment or abuse of authority.

51. **Mr. Bouzid** said that he would be interested to hear the delegation's reply to the question concerning the action taken in response to the Supreme Court's ruling in the Rizzo case that the modified composition of the Council of the Magistrature was unconstitutional.

52. **Mr. Avruj** (Argentina) said that Afro-descendants had accounted for almost half of the population of Argentina during the colonial period. Slavery had been abolished in 1813, and in 1853 the Government had opened up the country to immigrants. The majority had been of central European origin, and that had gradually altered the racial composition of the population. There had subsequently been a steady flow of migrants of African descent from Peru, Bolivia and Uruguay. Recent migrants from Senegal were primarily asylum seekers, and they enjoyed full rights, ran their own churches, mosques and schools. Those sectors accounted for 0.4 per cent of the population according to the latest census, which had been conducted in 2010. In all, about 3 per cent of the population reported having had one or more ancestors of African descent. Steps were being taken to enhance the visibility of African culture, which had been on the decline in recent decades.

53. **Mr. Iuis de Martini** (Argentina) said that two major issues concerning the Council of the Magistrature had been raised in the Rizzo case. One had concerned the increase in the number of members from 13 to 19 and the other had concerned the election of 12 of the 19 members by popular vote. Both those provisions had been found to be unconstitutional, and the current system was therefore still based on 13 members, only one of whom was appointed by the executive. Three members were elected from the judiciary, three from the Senate and three from the Chamber of Deputies. Two lawyers and one person from academia were also elected.

54. **Mr. Despouy** (Argentina) said that the Special Rapporteur on the independence of judges and lawyers had praised the amendments introduced in the laws governing public defenders' offices and public prosecutors' offices, and many Latin American countries had

been inspired by that reform. He agreed, however, that the goal of ensuring the independence of public defenders' offices from public prosecutors' offices presented a major challenge at the provincial level owing to the possibility of serious conflicts of interest. He hoped that the Justice 2020 Programme would lead to an improvement in the situation.

55. **Mr. Vitolo** (Argentina) said that all persons, including juveniles, were entitled to free legal assistance. A juvenile justice project was being discussed in the context of the Justice 2020 Programme. The Ministry of Justice was also working with the United Nations Children's Fund (UNICEF) on the introduction of alternatives to the prosecution and incarceration of minors and on raising awareness of the need for new legislation. Chapter III of Act No. 26.061, which dealt with the protection of the rights of children and adolescents, included provisions on minors' right to a defence. Many provinces had already adopted procedural standards based on that law.

56. **Mr. Bertoni** (Argentina) said that the regulation under which the National Communications Authority had been established had also provided for the creation of a commission that would be tasked with drafting amendments to the Audiovisual Communications Services Act (No. 26.522) and the Digital Argentina Act (No. 27.078). The amended legislation would be designed to ensure the neutrality, openness and competitiveness of audiovisual media and to promote political, religious, social, cultural, linguistic and ethnic plurality and diversity in the media. That commission had already held six meetings, all of which had been attended by representatives of civil society. An academic discussion had also been held with experts in communications law.

57. **The Chair** said that the State party was to be commended on its successful efforts to move Argentine society forward in the aftermath of the military dictatorship and during the transition to democracy. Its work in combating impunity and enforced disappearance was particularly laudable. The effect given to the Covenant and the Committee's Views in domestic law provided the State party with a powerful tool for the implementation of the Covenant at not only the federal level but also the municipal level. However, more vigorous action appeared to be required to ensure its implementation at the provincial level.

58. The Committee's key concerns pertained to the excessive use of force by law enforcement officers and by off-duty police and conditions in detention centres, particularly reported cases of torture and ill-treatment in prisons and police holding cells. More rigorous investigations of all such cases should be conducted.

59. The rising number of femicides was another major source of concern. She therefore welcomed the information that programmes to address the issue were being developed. The arbitrary application of criminal legislation in cases of abortion was also an issue of importance to the Committee.

The meeting rose at 1.05 p.m.