



**International Convention
on the Elimination
of all Forms of
Racial Discrimination**

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OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

Eighteenth periodic reports of States Parties due in 2004

Addendum

ARGENTINA* **

[5 March 2004]

* This document contains the sixteenth and seventeenth periodic reports, due on 4 January 2000, 2002 and 2004 respectively, submitted in one document. For the fifteenth periodic report of Argentina and the summary records of the meetings at which the Committee considered that report, see documents CERD/C/338/Add.9 and CERD/C/SR/1439, 1440, 1457 and 1458.

The information submitted by Argentina in accordance with the consolidated guidelines for the initial part of the reports of States Parties is contained in the basic document (HRI/CORE/1/Add.74).

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CONSOLIDATED REPORT OF THE REPUBLIC OF ARGENTINA UNDER ARTICLE 9 OF THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

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First part

GENERAL INFORMATION ON THE COUNTRY AND ITS POLITICAL ORGANIZATION

***Note:** The information and statistics given in the present report are drawn from the following sources: the 1991 National Population Census; the provisional results of the 2001 National Population Census (general estimates); the United Nations Human Development Report for 1999, 2001 and 2002; the World Development Report 2000/2001; the Argentine Report on Human Development 1998; and other official publications in some specific cases.*

Any further statistical information that becomes available once all the data from the 2001 national population census are processed and that may be relevant for the Committee will be provided on the occasion of the oral presentation of this report.

The information included in the first part of this report represents an updating of that provided in the first part of the core document submitted by Argentina (HRI/CORE/1/Add.74).

I. INFORMATION ON ARGENTINA

1. The most recent national census took place in November 2001 and showed a total population in Argentina of 36.2 million inhabitants. United Nations projections indicate that the country will have a population of close to 43.5 million inhabitants by the year 2015. The present annual rate of population growth is 1.1 per cent (less than for the period 1975-1999, when it was 1.4 per cent).
2. According to provisional estimates from the 2001 census, at present being computerized, the proportion of the national population of the female sex is 51.22 per cent, 2.44 per cent higher than that of males which is 48.78 per cent. The proportion of those under 15 years of age amounted by the 1990s to 27.9 per cent and that of those over 65 years to 9.7 per cent. The Argentine population's life expectancy is 77 years for women and 69.9 years for men.
3. Data for 1999 show the proportion of the population living in urban areas (of 2,000 or more inhabitants) to be 89.6 per cent, a figure which is predicted to rise to 92.6 per cent by 2015. Argentina is still the third most urbanized country of Latin America, behind Venezuela and Uruguay. This process of urbanization is marked by a high concentration of the population in the city of Buenos Aires and more particularly in the suburbs of the capital.
4. The national language of the Republic of Argentina is Spanish. In addition, various indigenous communities present in the country speak other tongues. The national Constitution, in article 75, paragraph 17, recognises the earlier ethnic and cultural presence of indigenous peoples in Argentina and lays down an obligation to guarantee respect for their identity and the right to a bilingual and intercultural education.
5. Freedom of worship is expressly provided for in the national Constitution (art. 14). However, that same document, in article 2 establishes that the national government "supports" the Roman Catholic and apostolic form of worship. This provision is purely economic and does not imply any form of discrimination, as will be made clear in our analysis of article 5 of the Convention.

6. The gross infant mortality rate for children under one year was 19 per thousand in 1999, a clear improvement on that for 1970 (59 per thousand). However, the serious economic crisis the country has been suffering since 1999 suggests that that percentage may have worsened, although to date we have no precise information on the subject.

7. According to the provisional 2001 census figures, there are 10,106,300 households in Argentina, a household being understood as a person or group of persons, whether members of the same family or not, who live under one roof and share food costs. Ninety-nine per cent of the population lives in these circumstances. The remaining 1 per cent resides in collective institutions, or premises made to house people who live together under a regime other than that of a family and governed by rules of an administrative, military or religious nature or for reasons of health, imprisonment or work etc. The 1991 census showed that the percentage of women heads of household in the country as a whole exceeded 22 per cent, rising to more than 32 per cent in the federal capital and the main cities of Argentina. According to that census some 13.3 per cent of the total were single-person households, more than half of which were women living alone. The number of women heads of household and women living alone is estimated to have increased over the last decade, but at present we are waiting for information on this to be supplied by the 2001 census.

8. In 1999, the literacy rate for adults (over 15 years) was calculated at 96.7 per cent and the rate of school enrolment at 0.92 per cent. However, in the least developed regions the rate of illiteracy may be 10 per cent.

9. In 1991, of the total population 15 years or over, 22.9 per cent had not completed primary school. While 12.2 per cent of the population had completed secondary school, 18.9 per cent had graduated to secondary school, but not completed it. Approximately 13.7 per cent had moved on to higher university education, though only 6.3 per cent had completed it.

II. GENERAL POLITICAL STRUCTURE

Republican form of government

10. Politically speaking, the Republic of Argentina has a representative, federal, republican form of government, as laid down in its Constitution adopted in Santa Fe on 1 May 1853 by the General Constituent Congress of the Argentine Confederation. The Constitution was amended in 1860, on the incorporation into the Argentine Confederation of the previously separate province of Buenos Aires. In 1949, a new constitution was adopted that laid great emphasis on social aspects and on the nation's claim to the wealth of the country. However, the military government that emerged from the 1955 coup brought back the earlier Constitution. On 22 August 1994, the National Constituent Convention adopted amendments to the Constitution that entered into force on 24 August 1994. The changes concern the essential, operative part of the Constitution.

11. The system of government is presidential, with power divided among the executive, the legislature and the judiciary. The nation is organized as a federation of 23 provinces and the city of Buenos Aires. The provinces are: Buenos Aires, Catamarca, Corrientes, Córdoba, Chaco, Chubut, Entre Ríos, Formosa, Jujuy, La Pampa, La Rioja, Mendoza, Misiones, Neuquén, Río Negro, Salta, San Juan, San Luis, Santa Cruz, Santa Fe, Santiago del Estero, Tucumán and Tierra del Fuego.

12. Each province has its own constitution in which is set forth its administration of justice, its municipal autonomy and the scope and content of its institutions, policies, administration, economy and finances. The provinces elect their authorities, namely a governor, legislators, a judiciary and other officials. They enact formal legislation in their local institutions and are empowered to conclude international agreements, so long as they are not incompatible with national foreign policy and do not infringe the powers invested in the Federal Government or harm the nation's reputation. Likewise, they can, with the knowledge of the Federal Congress, conclude partial treaties to further the administration of justice, economic interests or works of public utility.

13. The provinces cannot conclude partial treaties of a political nature. They may not adopt laws on foreign or domestic trade or navigation, set up provincial customs posts, mint money, open banks to issue banknotes without Federal Government authorization, adopt civil, commercial, criminal or mining codes apart from the national ones, pass laws on citizenship or naturalization, on bankruptcy or on the forging of currency or State documents, establish duties on tonnage, fit out warships or appoint or receive foreign agents.

Legislature

14. Under the Constitution at present in force, the legislature is made up of a bicameral congress: the Chamber of Deputies and the Senate (art. 44). The former is composed of representatives elected by a simple majority of votes of the people of the provinces and the federal capital. For this purpose, the provinces and the capital are considered as the electoral districts of a single State. The number of representatives is one per 33,000 inhabitants or fraction thereof not less than 16,500. Once each census has been held, the Congress decides on the number of representatives in the light of the census and can increase, but not decrease, the number of inhabitants represented by each deputy (art. 45). Under the Constitution as amended in 1994, the city of Buenos Aires is autonomous and retains the right to designate its representatives even if the federal capital is moved. The deputies serve a four-year term and may be re-elected, but every two years half the Chamber of Deputies is renewed (art. 50).

15. The Constitution in force until 24 August 1994 provided that the Senate should be composed of two senators from each province elected by majority vote of the provincial legislature and two from the federal capital designated by the electoral college. Since the revision, the membership is three senators from each province and three from the city of Buenos Aires, elected directly and jointly. Two seats are reserved for the political party that wins the most votes and the rest are for the party with the next highest number. Each senator has one vote (art. 54).

16. The 1994 revision provides that senators serve a six-year term and can be re-elected indefinitely. A third of the Senate membership is renewed every two years (art. 56). Previously the term of office was nine years renewable every three years.

17. The drafting and approval of laws is the work of the Legislature, in accordance with the modalities set forth in the Constitution. The National Congress also has, among other powers, that of declaring a state of siege in one or more parts of the nation in the case of internal disturbance. If the Executive has made such a declaration during a recess of Congress, the latter may subsequently either ratify or suspend it.

18. The 1994 constitutional revision created within the Legislature the Office of the Auditor-General of the Nation and the Ombudsman. The former is an operationally autonomous body providing technical assistance to the Congress; its purpose is to exercise external supervision of the national public sector with regard to national resources, the economy, finance and operational matters (art. 85). The Office of the Ombudsman is an independent body within the framework of the Congress with full operational autonomy for the defence and protection of human rights and other rights, guarantees and interests safeguarded by the Constitution and the laws from decisions, acts or omissions of the Administration (art. 86).

Executive

19. The National Executive is an office held by a citizen with the title of "President of the Argentine Nation" (art. 87). The 1994 revision of the Constitution did away with the requirement that the incumbent "belong to the Roman Catholic and Apostolic communion", contained in the 1853 Constitution.

20. Under the new Constitution, the President and Vice-President serve a four-year term and may be re-elected or succeed each other for a single consecutive term. If they have been re-elected or if one has succeeded the other, they cannot be elected to either office before the lapse of a further term (art. 90). A transition clause provides that, for the purposes of the article under consideration, the term of the President in office at the time the revision was adopted should be considered as the first term.. Before the revision, the President's term of office was six years and re-election was only possible after a further term had elapsed. In addition, as a result of the revision, the President of the Nation ceases to hold power the day his four-year term expires and no possible interruption of his term can be adduced to permit him to complete it later (art. 91).

21. If a president is ill, absent from the capital, dies, resigns or is removed from office, executive power devolves on the Vice-President of the Nation. If both the President and Vice-President have been removed, have died, have resigned or are incapacitated, the Congress determines which public official shall hold the presidency until the cause of the incapacity no longer exists or until a new president has been elected.

22. The procedure for the election of the President and Vice-President by an electoral college (indirect election) provided in the 1853 Constitution has been changed. The new text provides that both shall be elected directly by the people, in two rounds of voting, with the national territory considered as a single district (art. 94). The election takes place during the two months prior to the conclusion of the current President's term of office (art. 95). If required, a second round of voting on the two slates of candidates having obtained the most votes is held within 30 days of the first (art. 96). There is no second round if the winning slate in the first round has garnered more than 45 per cent of valid affirmative votes (art. 97) or when it has obtained at least 40 per cent of such votes and there are more than ten percentage points between its total and that of the runner-up (art. 98).

23. The revision set up the post of Chief of the Cabinet of Ministers, who reports to the Congress. The Chief of Cabinet is responsible for the general administration of the country in accordance with the decisions and regulations adopted for that purpose and those that the President delegates to him, with the consent of the ministerial secretary of the department concerned by any given decree or regulation. The Chief of Cabinet also co-ordinates, prepares and convenes the meetings of the Cabinet of Ministers and chairs them in the absence of the President. He has to appear before the Congress at least once a month, alternating between the

two Chambers, to report on government progress, in addition to possibly being summoned before them specially or being called for questioning by vote of an absolute majority of all the members of either Chamber. Once the regular sessions of the Congress have begun, the Chief of Cabinet, together with the other ministers, presents a detailed report on the state of the nation in the areas covered by the different government departments. He also produces the oral or written reports and explanations that either Chamber may request from the Executive and so may attend sessions of the Congress and participate in its debates without the right to vote. He countersigns decrees that provide for the exercise of powers delegated by the Congress, under the supervision of the Bicameral Standing Commission. Together with the other ministers he also countersigns emergency decrees and those that partially enact laws, submitting them personally after their adoption to the Standing Commission (arts. 100 and 101).

Judiciary

24. The judicial power of the nation is exercised by the Supreme Court of Justice and by the other lower courts established by the Congress in the national territory (art. 108). In no case can the President exercise judicial functions, assume jurisdiction over pending cases or reopen one that has been concluded (art. 109).

25. Until the revision of the Constitution, judges were appointed by the Executive with the agreement of the Senate. From 1994 on they have been appointed from a short list prescribed by the Council of the Magistrature (art. 114). There is periodic rotation in the Council of the Magistrature to ensure balanced representation of elected political bodies, judges from all the courts and lawyers on the federal register, as well as of other persons in the academic or scientific fields, in such numbers and by such means as the law establishing the Council allows.

26. The judges of the Supreme Court and of the lower courts of the nation remain in their positions so long as they conduct themselves appropriately (art. 110). Their removal may be decided on by an impeachment jury made up of legislators, magistrates and registered lawyers (art. 115), for reasons of incompetence, professional misconduct or common crimes (art. 53).

27. The Supreme Court and the lower courts try and decide all cases concerning points governed by the Constitution, by the laws of the nation or by treaties with foreign nations. The Supreme Court exercises its jurisdiction on appeal according to the rules and exceptions laid down by the Congress.

28. Without prejudice to the foregoing, the Supreme Court of Justice has primary and exclusive competence in cases concerning ambassadors, government procurators and foreign consuls. The same goes for cases concerning the admiralty and maritime jurisdiction; cases to which the Nation is a party; cases between two or more provinces; between a province and the residents of another; between residents of different provinces and between a province or its residents and a foreign State or citizen.

Public Prosecutor's Office

29. The 1994 revision set up the Public Prosecutor's Office as a separate, independent body with operational autonomy and financial autarchy, whose function is to promote justice and to defend the law and the general interests of society, in co-ordination with the other authorities of the Republic (art. 120). The Public Prosecutor's Office is composed of the national public

prosecutor, the national defence counsel and the other members provided for by the law. Its members enjoy immunity of office and their salaries cannot be attached.

III. LEGAL FRAMEWORK IN WHICH HUMAN RIGHTS ARE PROTECTED

30. The law in force in the Republic of Argentina is made up of legal provisions of differing status and application, all corresponding to the guidelines laid down in this regard by the Constitution.

31. The authority to conclude treaties belongs to the national Executive (art. 99, para. 11). However, between the signing of a treaty and the expression of consent to be bound by it, the national Constitution has provided for a substantive procedure incumbent on the legislature for the "approval or rejection of treaties concluded with other nations and international organizations" (art. 75, para. 22) which relates to the principle of the separation of powers and its corollary of mutual supervision. It guarantees participation by the representatives of the people of the nation and the representatives of the provinces in decisions on matters of obligation for the country.

32. The Constitution, in the unchanged clause of article 31, provides that treaties are the supreme law of the nation. The Supreme Court, as the interpreter of the provisions of the national Constitution, had resolved that treaties and national laws had equal status. This jurisprudence, reflected in the ruling in Martín & Co. v. General Ports Administration issued in 1963, was undisputed until 1992.

33. On 7 July 1992, the Argentine Supreme Court, expressing its opinion in the case of Ekmekdjian v. Sofovich, changed position and stated that "in our country international treaties take precedence over the national laws". This ruling occurred before the constitutional revision of 1994. On that occasion, in its decision on an amparo appeal concerning the "right of reply" claimed by the plaintiff, who invoked the American Convention on Human Rights, the Supreme Court based its ruling on the provisions of the Vienna Convention on the Law of Treaties (ratified by our country on 5 December 1972 and rendered applicable to the national territory by Act No. 19,865). What it said was: "*The Vienna Convention on the Law of Treaties is a constitutionally valid international treaty, which, in its article 27, provides that 'A party cannot invoke the provisions of its domestic law as justification for non-compliance with a treaty.' The necessary application of this article requires the organs of the State of Argentina to give precedence to treaties wherever there is a conflict with a domestic law.*"

34. After the August 1994 revision of the national Constitution, the new text of article 75, paragraph 22 provided that: "*Treaties and concordats have a higher status than laws. The American Declaration on the Rights and Duties of Man; the Universal Declaration of Human Rights; the American Convention on Human Rights; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights and its Optional Protocol; the Convention on the Prevention and Punishment of the Crime of Genocide; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination Against Women; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the Convention on the Rights of the Child, within the terms of their application, have constitutional status, do not abrogate any article of the first part of this Constitution and should be understood as complementary to the rights and guarantees recognised by it. They can only be denounced, if necessary, by the national Executive, with the prior consent of two-thirds of all the members of*

each Chamber. Other human rights treaties and conventions, once adopted by the Congress, require the assenting vote of two-thirds of all the members of each Chamber to acquire constitutional rank."

35. Later, by Act No. 24,820 of 30 April 1997, the national Congress granted constitutional rank to the Inter-American Convention on Forced Disappearance of Persons.

36. Moreover, by Decree No. 579/2003 of August 2003, the President of the Nation declared its accession to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, which had been adopted by the Congress in Act No. 24,584 of 1995. In the preamble to the Decree there is reference to the fact that "the Argentine Republic has embarked on a new stage in which respect for essential human rights, for democratic institutions and for social justice have become the fundamental pillars of government action". It also says that "it is the prime intention of the national Executive to contribute to creating a nation whose foundation is full respect for human rights" and that "our country has given constitutional status to various international documents whose main aim is to protect the dignity and value of the human person".

On 20 August 2003 the Congress adopted Act No. 25,778, promulgated on 2 September of that year, giving constitutional status to the above-mentioned Convention, in accordance with the procedure provided in article 75, para. 22 of the Constitution.

37. From the foregoing one may see that the conventions concerned, among which is that on the Elimination of All Forms of Racial Discrimination, are on an equal footing with the provisions of the Constitution and take precedence over national and provincial legislation. Various decisions of the Supreme Court confirm that pre-eminence. Likewise, in accordance with the provisions of articles 116 and 117 of the Constitution, the Supreme Court has judged that international custom and the general principles of law that are the sources of international law according to article 38 of the Statute of the International Court of Justice are an integral part of our legal order. For that reason, the Supreme Court has in many cases accorded merit to *jus gentium* and to "the general principles of international law" in applying various provisions of international law.

IV. COMPETENT AUTHORITIES FOR THE PROTECTION OF HUMAN RIGHTS

Judicial authorities

38. In the Argentine judicial regime, the power to administer justice is held concurrently by the nation and the provinces. Articles 5 and 123 of the Constitution provide that each province will draft its own constitution in accordance with the principles, declarations and guarantees of the supreme law "that ensures its administration of justice". The provinces designate their own officials and judges without intervention by the Federal Government (art. 122). At the same time, article 31 of the Constitution provides that the Constitution itself, the laws adopted by the Congress deriving from it and treaties with foreign Powers are the supreme law of the land, and the authorities in each province are bound to comply with that, notwithstanding any conflicting provision that may be contained in the provincial laws or constitutions.

39. The regular administration of justice is incumbent on the judiciary of each province, within the provincial territory, in application of the codes referred to in article 75, paragraph 12, namely

the Civil, Commercial, Criminal, Mining, Labour and Social Security Codes, according to whichever jurisdiction covers the matters or persons concerned.

40. With regard to national justice, article 116 of the Constitution provides that it is for the Supreme Court and the lower courts of the nation to try and to decide all cases concerning points governed by the Constitution and the national laws, excepting what falls within provincial jurisdiction. In the latter cases, pursuant to article 117, the Supreme Court exercises its jurisdiction on appeal.

Administrative authorities

41. At the national level, as part of the Executive, two human rights bodies have been created, one originally within the Ministry of the Interior but now in the Ministry of Justice, Security and Human Rights, and the other within the Ministry of Foreign Affairs, International Trade and Worship. This basic arrangement has recently received substantive support that has enhanced and diversified the opportunities for appropriately safeguarding the full effectiveness of human rights in the Republic of Argentina.

National Institute to Combat Discrimination, Xenophobia and Racism (INADI)

42. On 5 July 1995, the Congress adopted Act No. 24,515, promulgated on 28 July of the same year, setting up the National Institute to Combat Discrimination; Xenophobia and Racism (INADI) as a decentralized body within the purview (now modified) of the Ministry of the Interior for the purpose of elaborating national policies and concrete measures to combat discrimination, xenophobia and racism and of promoting and carrying out activities to that end. In view of the importance of its work for this report, we shall deal with it at length in the second part.

Human Rights Secretariat of the Ministry of Justice, Security and Human Rights

43. This body's basic purpose is to promote and protect human rights throughout the country. It carries out the following activities:

- Complaints and procedures programme. This consists in hearing complaints from individuals relative to conflicts that may be classed as human rights violations; the Secretariat counsels the complainants and refers the cases to the relevant national authority.
- Legislation drafting programme. The Secretariat takes part in and assists the human rights commissions of the Congress.
- Institutional relations programme. Its aim is to foster and maintain smooth relations with national bodies, public and private, and foreign organizations working in the area of human rights.
- Federal Council of Human Rights. Its purpose is to link and co-ordinate policies for the promotion and preservation of human rights at the State and provincial levels; to ensure efficient co-ordination and fluid communications, so that the work of preparation may be centralized and that of implementation decentralized, bearing in mind the real situation in each province.

- Historical reparation programme. The Human Rights Secretariat has the task of processing benefits for former detainees of the Executive, civilians tried by military tribunal before the restoration of democracy on 10 December 1983 and the successors of disappeared persons.
- National Commission for the Right to an Identity. The purpose here is to assist the search for disappeared children and determine the whereabouts of kidnapped and disappeared children of unknown identity, as well as of children born when the mother was illegally deprived of liberty and also of other children who do not know their identity, because, for various reasons, they were separated from their biological parents.
- National Commission on the Disappearance of Persons (CONADEP). This government unit is responsible for the conservation and updating of its files.

Human Rights Department of the Ministry of Foreign Affairs, International Trade and Worship

44. The primary responsibility of this government body is to identify, prepare and propose plans, programmes, projects and objectives for foreign policy in the area of human rights, and to be involved in the conduct of foreign policy in that field vis-à-vis special international bodies, entities or commissions.

45. It also takes part in the study of ways to adapt legislation to commitments undertaken in the international human rights field, in the signing and conclusion of treaties and in determining the eligibility of refugees.

46. This body has a primary role in the Argentine Republic's participation in the sessions of all United Nations human rights bodies.

Government Procurator for the Prison System

47. Decree No. 1598 of 29 July 1993 set up the post of Government Procurator for the Prison System, with the rank of Under-Secretary of State, a renewable four-year term of office and responsibility nationally and within the Executive. The basic task of the Government Procurator is to protect the human rights of prison inmates covered by the federal prison system, in accordance with the provisions on such rights in national law and in the international conventions on the subject to which Argentina is a State Party. In the discharge of his functions this official is not subject to any binding mandate and may not receive instructions from any authority, but must act independently using his judgement to determine the cases he will take up.

48. The Procurator's mandate entitles him to visit regularly all the prisons in which national or federal prisoners are held. He may, *ex officio* or in response to a request, investigate any act or omission that may harm the rights of the inmates and is under obligation, where necessary, to file criminal charges. The views or opinions of the Procurator are reflected in recommendations to the Ministry of Justice, which monitors and supervises the national and federal prison system. The Minister of Justice then renders those recommendations operative by endorsing the Procurator's resolutions.

Parliamentary commissions

49. Within the Legislature special bodies have been set up with competence in the human rights field. In December 1983, the Senate, whose members are the representatives of the 23 provinces and the federal capital, set up a Commission on Human Rights and Guarantees. The example was copied by the Chamber of Deputies on 30 September 1992. In both cases, the membership of the commissions includes parliamentarians from all the political parties represented in parliament.

50. The work of these commissions has been enriched by the contributions of government officers, who are periodically invited to make reports, and of national and international experts on the subject. In addition to constituting a natural forum for debate on those items that will become the subject of draft laws, the commissions seek information from the Executive on questions within its purview. The provinces have also followed this example and their legislatures have established human rights bodies.

Ombudsman

51. On 1 December 1993, the Congress adopted Act No. 24,284, which created the Office of the Ombudsman within the Legislature. The Ombudsman exercises his functions without receiving instructions from any government department. His mandate is to protect the rights and interests of individuals and the community from acts or omissions on the part of the national Public Administration. His work includes launching investigations *ex officio* or on request to clarify acts of the administration likely to harm those rights and interests, including those of an extended or collective nature.

52. The Republic of Argentina already had experience of a Human Rights Procurator in the city of Buenos Aires. The constitutional revision of 22 August 1994 introduced a new article devoted to the Office of Ombudsman.

Remedies

53. All the inhabitants of the Argentine Republic have a range of recourses that allow them to resolve cases where a fundamental right may have been violated. These recourses are regulated by ordinary legislation and vary according to their purpose. Nevertheless, the constitutional revision introduced a new article 43, which states the following.

54. "Anyone may institute prompt and speedy amparo proceedings, provided no other more appropriate judicial remedy exists, against any act or omission by public authorities or private individuals which actually or potentially infringes, restricts, jeopardizes or threatens rights and guarantees recognised by this Constitution, a treaty or a law in a manifestly arbitrary or illegal manner. In such instances, the judge may declare unconstitutional the provision on which the injurious act or omission is based. This action may be taken against any form of discrimination and with regard to the rights that protect the environment, competition, users and consumers, as well as to collective rights in general, by the party concerned, the Ombudsman and associations that share those goals and are registered in accordance with the law, which shall determine the conditions and form of their organization.

This action may be undertaken by any person in order to obtain information about the content and purpose of data relating to himself contained in public or private records or data banks intended for reports, and, if the information is false or discriminatory, to demand that it be

destroyed, corrected, made confidential or updated. The confidentiality of journalists' sources of information may not be affected. When the right which has been infringed, restricted, jeopardized or threatened concerns physical liberty, in the event of the illegal worsening of the form or conditions of detention have been or in the case of the enforced disappearance of persons, an application for habeas corpus may be filed by the affected party or by any person acting on his behalf, and the judge shall hand down a decision immediately, even if a state of siege is in force.

Complaints

55. Article 174 of the Code of Criminal Procedure, in force since September 1992, provides that "any person who considers that they have been harmed by an offence prosecutable *ex officio* or who, without claiming to have been harmed, has knowledge of such an offence, may file a complaint before the judge, a government attorney or the police. If the criminal action is a private one, only the person entitled to bring charges may file the complaint, pursuant to the relevant provisions of the Criminal Code. Subject to the formalities set forth in book I, title IV, chapter IV, the person may request to be considered as a plaintiff.

56. Concerning the obligation incumbent on public officials, the Code of Criminal Procedure in article 177 states that "the obligation to denounce offences prosecutable *ex officio* is incumbent on: 1) public officials and government employees who learn of them in the exercise of their functions; 2) doctors, midwives, chemists and other persons in any of the health professions, with regard to offences that come to their knowledge as they provide their professional services, with the exception of what they learn under the veil of professional secrecy".

Amparo proceedings

57. Act No. 16,986 governs amparo proceedings against any act or omission on the part of a public authority which actually or potentially infringes, restricts, jeopardizes or threatens, in a manifestly arbitrary or illegal manner, rights or guarantees explicitly or implicitly recognised in the Constitution, with the exception of individual liberty protected by habeas corpus.

58. Cases where amparo is inadmissible are expressly detailed in article 2 of the aforementioned Act. This occurs when: a) judicial or administrative recourses or remedies exist that would permit the protection of the right or guarantee concerned; b) the contested act is that of a judicial body or follows from the express application of Act No. 6,970; c) the legal action would directly or indirectly compromise the regular, continuous and effective provision of a public service or the performance of essential State activities; d) a ruling invalidating the act would require further deliberation or proof or a declaration of unconstitutionality in respect of laws, decrees or ordinances; e) the request was not made within 15 working days of the act's occurrence or commission.

59. The legal action must be brought before the judge of first instance who has jurisdiction in the place where the act occurred or where its impact was or might be felt. If and when the legal action is admissible, the judge must request from the relevant authority a detailed report on the background and reasons for the contested act, which must be produced by whatever reasonable deadline he sets (usually five days). Once the report has been issued or the deadline for its presentation has passed, and the plaintiff has no evidence to produce, a substantiated decision must be pronounced within 48 hours granting or denying amparo.

60. The final decision declaring the existence or non-existence of an arbitrary or manifestly illegal infringement, restriction, jeopardizing of or threat to a constitutional right or guarantee renders the amparo action *res iudicata*, leaving open whatever actions or remedies are available to the parties aside from amparo. Appeal may be made only against the final decision, a decision declaring the proceedings inadmissible and decisions that provide for measures involving no new action or suspending the effects of the contested act.

61. Amparo proceedings against an act or omission on the part of an individual are covered by article 321 of the Code of Civil and Commercial Procedure in the following terms: "The procedure established in article 498 [Summary procedure] shall be applicable ... when a complaint is brought regarding an act or omission on the part of an individual which actually or potentially infringes, restricts, jeopardizes or threatens in an arbitrary or manifestly illegal manner any right or guarantee explicitly or implicitly recognised in the national Constitution, provided that urgent redress of the injury or the immediate cessation of the effects of the act is necessary, and the question does not, by its nature, have to be dealt with by one of the procedures established in this Code or other laws."

62. The rules for summary procedure apply to these proceedings, with the following modifications: no counterclaims or special pleas are admitted; two day time limits apply in all cases, unless the claim is being contested, when five days are allowed, or evidence has to be produced, for which the judge sets the limit; only the final decision and precautionary injunctions may be appealed.

63. Article 28 of Act No. 19,549 on administrative procedures, modified by Act No. 21,686, provides for action for amparo in cases of administrative delay in the following terms: "Anyone who is a party to administrative proceedings may file a judicial application for prompt dispatch of the affair. Such an order is admissible when the administrative authority has let a deadline pass or, if no deadline existed, when more than a reasonable amount of time has elapsed before the issuance of the ruling or decision, whether substantive or purely procedural, that the person concerned required. Once the application has been filed, the judge shall rule on its admissibility bearing in mind the circumstances of the case and, if he deems fit, require the administrative authority involved, within a time limit that he sets, to produce a report on the causes of the alleged delay. The judge's decision is final. If the order has been challenged or the deadline has passed without the report being produced, an appropriate decision shall be made regarding the delay and an order shall be issued, if required, to the administrative authority responsible to take the necessary action within a reasonable time limit to be established in light of the nature and complexity of the ruling or the outstanding procedures."

Application for habeas corpus

64. Act No. 23,098 provides that proceedings for habeas corpus are in order when a public authority is accused of an act or omission that involves: 1) limitation of freedom of movement or a present threat of such without a written order from the competent authority; 2) illegal downgrading of the form and conditions of detention, without prejudice to the powers of the trial judge if there is one.

65. When a person's freedom is restricted by virtue of the declaration of a state of siege, habeas corpus proceedings call for verification, in this specific case, of whether: 1) the declaration of a state of siege was legitimate; 2) there was a connection between the detention order and the situation that gave rise to the declaration of the state of siege; 3) the form and conditions of the

detention, which can in no case be imposed in establishments where prison sentences are served, were illegally downgraded; 4) there was effective exercise of the right to choose to leave the national territory.

66. When a person has been deprived of their liberty, once the complaint has been filed the judge immediately orders the authority summoned, if there is one, to bring the detainee before him together with a detailed report of the reasons for the measure, the manner and circumstances in which it is being carried out, if it has been done on a written order from a competent authority, in which case that order must be produced too, and, if the detainee has been placed at the disposal of another authority, who that was, for what reason it was done and when the transfer took place. When the case is one of a present threat to deprive a person of their liberty, the judge orders the authority summoned to present the report referred to above.

67. When the court or judge of the competent jurisdiction knows and has satisfactory proof that a person is being held in custody, detention or confinement by an official subordinate to them or a lower-ranking administrative, political or military official and it is to be feared that he may be transported outside the territory of their jurisdiction or that irreparable harm will be done him before he can be assisted with a writ of habeas corpus, they may issue one *ex officio* and order those who are holding him or any administrative officer, police agent or other employee to take the person being held or threatened and bring him before them for an appropriate decision in accordance with the law.

68. When a person's freedom is restricted by virtue of the declaration of a state of siege, habeas corpus proceedings call for verification, in this specific case of whether the declaration of a state of siege was legitimate; whether there was a connection between the detention order and the situation that gave rise to the declaration of the state of siege; whether the form and conditions of the detention, which can in no case be imposed in establishments where prison sentences are served, were illegally downgraded; and whether there was effective exercise of the right to choose to leave the national territory.

Extraordinary appeal

69. Article 14 of Act No. 48 governs extraordinary appeal to the national Supreme Court of Justice. The provision states that this recourse may be made against the final judgement in following cases: 1) when during the proceedings the validity of a treaty, an act of the Congress or an authority exercised on behalf of the nation has been called in question and the ruling has been against its validity; 2) when the validity of a provincial law, decree or authority has been questioned on the pretext that it runs counter to the national Constitution, to treaties or to laws of the Congress and the decision has been in favour of the validity of the provincial law or authority; 3) when the interpretation of a clause of the Constitution or a treaty or act of the Congress or a commission undertaken on behalf of the national authority has been called in question and the decision has gone against the validity of the deed, right, privilege or exemption deriving from that clause and is a cause of dispute.

70. The jurisprudence of the Supreme Court has extended extraordinary appeal to cases of arbitrary judgements, that is, decisions which in some way – because they applied laws that were not in force, disregarded evidence, omitted related questions etc. – violated the guarantee of a legal defence.

Administrative appeals

71. Act No. 19,549 on administrative procedures governs appeals that may be made against acts of the administration. They are the application for reconsideration before the body that ordered the act that is being appealed, and the appeal to a higher instance, which is lodged with the same authority but must be decided by the Minister in whose department the act was ordered. The President rules on appeals to a higher instance made against acts of his ministers.

Second part

INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

ARTICLE 2

V. BACKGROUND

72. From a historical perspective, Argentina's past is one of contradictions. On the one hand, slavery was banned early on in our institutional history: in 1813, three years after the first acts of independence – which was formally declared in 1816 – the "libertad de vientres" or freedom of slaves' offspring was decreed, and in 1853 slavery was definitively abolished. (This was due, it must be admitted, to the underdevelopment of intensive agriculture.) On the other hand, the campaigns to uproot the Indian peoples from their lands, and in many cases to annihilate them, as happened in the military campaigns at the end of the 19th century, as well as the recruiting of excessively high numbers of Afro-Americans in the wars of independence, constitute a blot on the history of our country. Likewise, once the nation had become a political entity (in the mid-19th century), immigrants flocked to its territory, mainly from Europe, in greater numbers than to any other State on the continent, but their assimilation was found to be so complex that laws restricting immigration were passed in contradiction to the broad and generous spirit of the Argentine Constitution.

73. Since 1983, the year in which a new stage in our democracy began, an effort has been made to combat discrimination. Nevertheless, there are still government actions to be taken to fight discrimination in all fields. Moreover, some individual or group manifestations of discrimination reflect the xenophobic ethics, psychology, beliefs and ideas found in all societies, regardless of government action.

74. However, the chief difficulties in consolidating this action derive from the economic limitations which have seriously affected the struggle against discrimination. It is a fact that the entire Public Administration has suffered serious cutbacks in its government action. In the case of INADI, the streamlining was even more radical, with up to 50 per cent cuts in salaries, staff layoffs and, in general, a reduction of management expenditure (on inputs, travel to affected areas, assistance etc.) that brought it to the brink of collapse. In April 2002, new authorities were appointed and by the end of that year INADI had been recognised as an autonomous body, as will be explained later on. This new, still ongoing, process suggests positive forward movement that is still being consolidated.

VI. LEGAL PROVISIONS FOR THE PROTECTION OF FUNDAMENTAL RIGHTS AND LEGISLATION TO COMBAT DISCRIMINATION

75. Article 16 of the national Constitution, as adopted in 1853, stipulates that: "*The Argentine Nation admits no prerogatives of birth or blood. In it there are no special privileges or titles of nobility. All its inhabitants are equal before the law and employable on no other criteria than their aptitude. Equality is the basis for taxation and for public office.*" Article 20 of the same Constitution in its turn provides that "*Foreigners in the territory of the Nation enjoy all the civil rights of citizens*". These provisions, despite their age, coincide with the principles of the Universal Declaration of Human Rights and the American Convention on Human Rights, article 26 of the Covenant on Civil and Political Rights and other similar international documents.

76. The Supreme Court of the Nation has decreed that the rights in force in the Argentine Republic are provided for the enjoyment and exercise of all the inhabitants of the Republic. It expresses itself as follows: "*The word 'inhabitant' includes both nationals and foreigners and refers to those persons who reside in the territory of the Republic with the intention of staying there, even if they have not constituted a domicile with all the legal effects thereof.*" (Rulings 151:211)

77. Furthermore, Argentina has ratified the inter-American documents protecting fundamental guarantees, namely: the Charter of the Organization of American States; the American Declaration of the Rights and Duties of Man (which has constitutional rank); the American Convention on Human Rights, known as the "Pact of San José" (also with constitutional rank); the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women and the Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities.

78. As mentioned in the first part (paras. 32 and ff), the Supreme Court has decreed on several occasions that international treaties and conventions take precedence over domestic laws and other provisions.

79. Our country has also ratified the founding Charter of the United Nations; the International Convention on the Suppression and Punishment of the Crime of Apartheid; the International Convention against Apartheid in Sports and, among others, the International Labour Organization's Convention No. 111 on discrimination in respect of employment and occupation.

80. In the 1994 constitutional revision already referred to other provisions were also introduced aimed at the protection of social sectors vulnerable to discrimination. For example:

- a) Recognition of the "earlier ethnic and cultural presence of the indigenous Argentine peoples ... and of the indigenous communities as legal entities ... and of community possession and ownership of the lands they traditionally occupy" (art. 75, para. 17).
- b) Recognition of the pre-existing recourse on of amparo as a constitutional norm, with special reference to the fact that it should also be applicable to "any form of discrimination".
- c) Inclusion of the principle of the obligation to promote "equality of opportunity without any discrimination" (art. 75, para. 19).
- d) The obligation of the Congress to "legislate and promote measures of affirmative action to guarantee equality of opportunity and treatment and of the full enjoyment of the rights recognised by this Constitution and the international human rights treaties in force, in particular with respect to children, women, the elderly and the disabled" (art. 75, para. 23).
- e) Recognition of action for amparo as a constitutional norm. This action is broadly protective of rights against acts of the administration and in 1957 was recognised by the Supreme Court in the Siri case. In 1967, the dictatorship of J.C. Onganía curtailed the operation of amparo action by the provisions of the *de facto* Act No. 16,986. Fortunately, the wording of the new Constitution cancelled the restrictions imposed by the *de facto* law. Action for amparo is provided for in

article 43 of the Constitution, which contains special reference to the fact that it should be applicable "against any form of discrimination".

81. The constitutional recognition of the legal capacity and rights of the indigenous peoples put the pre-existing Act No. 23,302 on protection of indigenous populations and support for their communities in a new context, as did the promotion of provincial legislation on the subject. At the same time it strengthened the action of the National Institute of Indigenous Affairs (INAI), which at present reports to the Ministry for Social Development.

VII. OTHER LEGISLATION

82. In addition to those described, there exists a broad and varied range of relevant legal and administrative provisions. The following may be mentioned:

National legislation

Act No. 23,592. Discriminatory acts

Act No. 16,986. Amparo proceedings

Act No. 20,744. Labour contract, arts. 17 and 81

Act No. 22,431. Institution of a system of over-all protection for disabled persons

Act No. 24,284. Office of the National Ombudsman

Act No. 24,515. Creation of the National Institute to Combat Discrimination, Xenophobia and Racism

Act No. 24,382. National Day of Struggle against Discrimination, Xenophobia and Racism

Decree 258/98. Plan for Equality between Men and Women in the Workplace

Constitution of the Autonomous City of Buenos Aires: arts. 10, 11, 14, 23, 36, 38, 40, 41, 42, 43, 62, 137 and transition clause 21.

Ordinances and laws of the City of Buenos Aires

83. Although the provisions listed below relate principally to the city of Buenos Aires, it should be borne in mind that such provisions are habitually reproduced in the legislation of other urban centres of the country:

Ordinance No. 35,102. Primary education benefit to enable disabled pupils to attend regular schools

Ordinance No. 39,892. Compulsory construction of entrances and ramps

Ordinance No. 40,155 International access symbol

Ordinance No. 47,818. Access and ramps at street crossings

Ordinance No. 48,829. Equality of opportunity for men and women

Ordinance No. 49,516. Rental vehicles (for the transport of disabled persons)

Ordinance No. 50,648. Priority care for persons with special needs and pregnant women

Ordinance No. 50,951. Football stadiums, exclusive area

Ordinance No. 51,608. Priority care in stores

Ordinance No. 52,111. Declaration of interest in the struggle to combat discrimination against women

Laws applicable to the area of the Autonomous City of Buenos Aires

84. The 1994 constitutional revision established the autonomy of the City of Buenos Aires. Hence the laws listed here all refer to the last 10 years. The same goes for other parts of the country.

Act No. 3. Office of the Ombudsman of the Autonomous City of Buenos Aires

Act No. 10 (and amendments). Code on Minor Offences of the City of Buenos Aires, arts. 42 and 43 bis.

Act No. 22. Persons with special needs

Act No. 28. Mass entertainments (disabled facilities)

Act No. 64. Use of braille systems

Act No. 66. Menus in braille

Act No. 88. Principal guidelines for public policies for the elderly

Act No. 103. Affirmative action programmes for female heads of household and pregnant women

Act No. 114. Over-all protection of the rights of adolescents in the City of Buenos Aires, arts. 20 and 21

Act No. 120. Employment Act, art. 2, para. B

Act No. 137. Centres for secondary-school students, art. 3, para. D

Act No. 153. Basic Health Act, art. 4, para. B

Act No. 161. Lifts, art. 1

Act No. 175. Study and training programme on equality of opportunity

Act No. 203. School enrolment of pupils without identity papers

Act No. 223. Co-existence within the school system, art. 6

Act No. 265. Labour administration authority, arts. 1 and 18

Act No. 421. Protection against discrimination on genetic grounds

Act No. 447. Policy framework for the full participation and integration of persons with special needs

Act No. 451. Minor offences regime of the Autonomous City of Buenos Aires, arts. 4.1.10, 5.1.6 and 5.1.9

Act No. 471. Labour relations in the public administration of the Autonomous City of Buenos Aires, arts. 2, para. c, 9, para. d, 31, para. c, 63 and 64

Act No. 474. Plan for real equality of opportunity and treatment for men and women

Act No. 664. Access to all social services for all persons without regard to their migrant status

VIII. ANTI-DISCRIMINATION CASE-LAW

85. Several rulings have tended to confirm the principles of non-discrimination. The following may be mentioned, grouped according to the cause of the discrimination:

Discrimination on grounds of nationality

- a) The case of NN (amparo). Decided by the Supreme Court of Mendoza, courtroom I (March 1995). A foreigner nationalized Argentinian complained that he had been refused admission into the provincial police force, as a provincial law required, because he had been born abroad. The case was admitted and the law was declared unconstitutional, since it prescribed something contrary to the Constitution by excluding "naturalized Argentinians from the possibility of entering the provincial police, which is illogical, prejudicial and contrary to the appeal made in the national Constitution concerning foreigners who decide to take our nationality ... for purposes of their work, foreigners are placed on an equal footing with Argentinians by an express provision of the Constitution".

Discrimination on grounds of sexual orientation

- b) The case of NN (amparo), which called for permission to undergo a sex-change operation. Decided by the Criminal Court of Mar del Plata (June 1997). The right to a sex change was admitted, since "any prohibition or restriction aimed at violating personal identity (by restricting a surgical operation designed to reveal the true sexuality of the person) would of itself and in addition mean an illegal and manifest violation of the principle of non-discrimination, without objective or reasonable justification".

Discrimination on grounds of gender

- c) The case of Elvira Bello v. Argentine Shooting Federation. Decided by the National Civil Chamber, courtroom D of the City of Buenos Aires (July 1998). The appellant requested that she be given the title of Shooting Champion in her special field, after she had won the relevant competition. The Federation rejected the demand and only admitted her as winner of the competition, basing itself on a pre-existing regulation that recognised only male champions, a regulation that the competitor must have known of before entering. The Chamber declared the regulation unconstitutional because it gave rise to discrimination "since any distinctions that are made should be for reasons of differentiation and not with the aim of persecuting or granting undue privilege to a person or group".
- d) The case of Alicia Susana Barcena v. Province of Buenos Aires (amparo appeal), art. 18. Decided by the Supreme Court of the Province of Buenos Aires. In several cases of unequal labour treatment brought against the Government of the Province of Buenos Aires, the decision was to apply the principle of equality and non-discrimination on the basis not only of national legal instruments but also of international conventions on the subject. The argument on the merits states, *inter alia*: "It is clear that in the second half of this century a new legal discipline has come into being, namely, international human rights law. This has produced a series of international instruments and treaties that have served to breathe fresh air into domestic law, giving it a framework of guidelines at the universal and regional level and placing a protective screen around human beings wherever they may be. This has become known as the transnational dimension of law and justice. ... Whether it be the Universal Declaration of Human Rights, the American Declaration or Pact of San José, or the International Covenant on Civil and Political Rights, they have elaborated a set of rules designed to eliminate all forms of discrimination and – so far as possible – to promote equality of rights for men and women" (Judge Hitter's vote).

Discrimination on grounds of criminal record

- e) The case of Fabian Horacio Gandolfo v. Government of the City of Buenos Aires (amparo). Decided by the National Appeals Chamber for Minor Offences of the Federal Capital, courtroom II (August 2000). The appellant was appealing the refusal of the government to grant him a licence to drive taxis on the grounds that he had a criminal conviction, although he had already served his sentence. On the basis that the case was one of discrimination, in so far as the refusal "fell outside the limits of the sentence", the court granted the appeal.

Discrimination on grounds of age

- f) The case of Silvia Ruth Abadie v. Government of the City of Buenos Aires (amparo). Decided by courtroom I of the Minor Offences Court of the City of Buenos Aires (October 2000). Hearing a specific case, the court ruled it unconstitutional to set an age limit for entering the teaching profession in the City of Buenos Aires. Among the grounds for its decision the court argued that the Constitution "expressly establishes equality before the law and does not admit discrimination that would tend to segregate persons by reasons, *inter alia*, of age.

IX. INADI, EXECUTING AGENCY FOR ANTI-DISCRIMINATION POLICY

86. Various sectors of government and non-governmental organizations have assumed responsibilities in the fight against discrimination. Several of them will be mentioned throughout this report. However, special reference should be made to the National Institute to Combat Discrimination, Xenophobia and Racism (INADI), which by its very nature constitutes the executing agency for State policy in this field.

87. As a consequence of the legal provisions described in the first part of the present report, in July 1995 Act No. 24,515 was adopted creating the National Institute to Combat Discrimination, Xenophobia and Racism (INADI), a decentralized body under the jurisdiction of the Ministry of the Interior whose purpose is to prepare national policies and concrete measures to combat discrimination, xenophobia and racism.

88. In 2002, INADI was restructured. In April of that year, on a proposal from Parliament, a chairman and vice-chairman were appointed. Then, on 19 December 2002, Act No. 26,572 was adopted restoring INADI to its legal status as a decentralized body, with the unanimous backing of both chambers of parliament.

89. As a result, it ceased to be subordinate to the Ministry of the Interior and as an autarchic national institute now reports directly to the President of the Nation. On 4 June 2002, the Board of Directors of INADI was reconstituted with the participation of the Ministries of Foreign Affairs, International Trade and Worship; Education; Justice, Security and Human Rights; and the Interior. Three non-governmental organizations (NGOs) are also part of the Board: the Permanent Assembly for Human Rights (APDH); the Delegation of Jewish-Argentine Associations (DAIA); and the Federation of Arab-American Organizations (FEARAB).

90. As can be seen, one feature of INADI is the active participation of NGOs in directing its work. In addition to what is stated in the previous paragraph, INADI has used the services of an Advisory Council made up entirely of NGOs representing different vulnerable groups, namely: the Indigenous Association of the Argentine Republic (AIRA); B'nai B'rith International; the Centre for Legal and Social Studies (CELS); Centre for Latin American Migration Studies (CEMLA); Argentine Federation of Communities (FAC); Federation of Arab-Argentine Organizations (FEDARAB); the "All in a Team" Foundation; and the Argentine Society for Gay and Lesbian Integration (SIGLA).

91. In November 2002, the draft of INADI's first budget, for the year 2003, was submitted to the National Budget Office. The final sum approved for 2003 was \$700,000 (approximately US\$235,000). The minimum transition staffing requirements (second semester) were ratified in a special session, as was the draft law on the decentralization of INADI.

92. Pursuant to the law establishing it, INADI's functions are as follows:

- a) To act as the entity implementing the law against discrimination, ensuring compliance with it and the achievement of its objectives;
- b) To make known the principles on which it operates;
- c) To plan and promote education campaigns to teach the value of social and cultural pluralism and eliminate discriminatory, xenophobic and racist attitudes;

- d) To compile and keep up to date information on international and foreign legislation on the subject and to draft comparative reports on that legislation;
- e) To receive and centralize complaints of discriminatory, xenophobic or racist conduct and keep a record of them;
- f) To compile a register of documents, evidence and proof relevant to the objectives of the institution;
- g) To offer a complete free counselling service for individuals or groups victims of discrimination, xenophobia or racism;
- h) To provide free legal assistance and, at the request of the party concerned, ask to review judicial or administrative actions related to its area of competence;
- i) To provide technical assistance to the Public Prosecutor's Office and to judicial tribunals;
- j) To inform public opinion about discriminatory, xenophobic or racist attitudes or conduct on the part of public bodies or private persons;
- k) To assemble prima facie evidence on the presence in the country of persons who during the Second World War or later may have taken part in exterminating peoples or in persecuting or killing persons or groups of persons because of their ethnic origin, religion, nationality or political opinions and, where need be, file complaints with the competent authorities;
- l) To institute and pursue the judicial proceedings for immediate protection provided for in the national Constitution;
- m) To establish links of co-operation with national or foreign entities, whether public or private, that have objectives similar to those of the Institute;
- n) To propose to the relevant body the conclusion of new extradition treaties;
- o) To conclude agreements for the achievement of the objectives assigned to INADI.

93. These objectives show that this body has broad functions ranging from matters of theory to practical assistance. Thus, on the one hand, it promotes study and research into the subjects that concern it, canvasses the principles of non-discrimination in education centres and among the public at large, advises State bodies or private entities and establishes contacts with relevant institutions; and, on the other, it assists individuals or groups suffering discrimination, receives and lodges complaints and in some cases is empowered to institute emergency judicial action to protect victims.

94. Both INADI and the Human Rights Secretariat in the Ministry of Justice and Human Rights have a mandate to teach security personnel and prison staff. Subparagraph d) in the list of objectives of the Secretariat establishes that it is one of its functions "to train police officers and security forces to carry out their tasks in obedience to the rules and principles of existing legislation and, therefore, in accordance with United Nations recommendations". INADI also

considers that that is part of its work in the context of its general objectives of publicizing international and national provisions against discrimination, xenophobia and racism and ensuring compliance with them (art. 4, para. a) and of providing assistance to the Prosecutor's Office and the judicial tribunals (art. 4, para. i). The two organizations co-ordinate their work. For example, in the courses organized by the Secretariat it has been agreed to devote part of the subject-matter to problems of discrimination.

95. Argentina itself has submitted all the reports required by the Committee of experts on Racial Discrimination (CERD). Furthermore, as the present report is being drafted the administrative procedures are well advanced for adoption of the draft law that will authorise the national Executive to make the declaration provided for in article 14 of the Convention recognising the competence of the Committee to hear and examine communications from persons or groups of persons within the jurisdiction of the Argentine Republic.

X. THE WORK OF INADI. ANTI-DISCRIMINATION POLICY IMPLEMENTATION MEASURES

96. The following is a summary of INADI's work during the period 2000-2002, which shows how the struggle is waged in Argentina against discrimination and racism.

Scientific research and training. The projects under way are as follows:

- *"Recording and analysis of complaints of discrimination submitted to INADI"*

The report on complaints received during the period 1997-1999 has been drafted and includes a classification by subject and level of gravity; indicates the agent responsible for the act of discrimination, differentiating institutions and individuals and state or private entities; and details the ways the Institute evaluates the complaints it receives. This report is ready for publication. Work is now being done on the recording and analysis of complaints submitted during the period 2000-2001.

- *"Towards an analysis of how the notion of 'otherness' is constituted, as an aid to understanding practices of genocide in society"*

Work has begun on what goes into creating the oppressor's consciousness of self and dehumanization of 'the other', the process that makes the latter a negative quantity and allows inhuman action against him. A report already exists on the ways in which the notion of negative 'otherness' was built up in Argentine thinking at the end of the 19th and beginning of the 20th century.

- *"The cultural mechanisms and aesthetic discourse of social exclusion in Argentina: a comparative investigation into the acculturation through education of indigenous and Arab or Jewish minorities and cultural and media discrimination against them"*

Work has begun on recording the architectural heritage of various Argentine cities and how it appears in and overlaps with the aesthetic idiom of the groups analysed.

- *"Identity and 'otherness' in Basic General Education (EGB) textbooks"*

This project is being carried forward in co-ordination with the National Institute of the Arts and Sciences of Cultural Diversity of the Tres de Febrero National University. The whole set of textbooks used nationally during the period 2000-2002 in the EGB first cycle (first, second and third grades), the work of 10 publishing houses, is considered. The first report is being prepared, investigating the ways in which the notion of 'otherness' is created in terms of the characteristics of the persons and of the typical classroom featured in the textbooks. For this the characters' complexion, hair colour, work and/or profession are examined, as well the relationships among them. A careful qualitative analysis is also made of the ways in which the notion of "otherness" is constructed in the text.

97. Two seminars have also been held: one on antidiscrimination training (with marks awarded by INAP) for the staff of the Ministry of the Interior; and the other an introductory seminar-workshop on antidiscrimination training, held jointly with the National University of Córdoba and the Tres de Febrero National University in June 2002.

98. Towards the end of 2000 the publication of booklets for the general public was begun. The first two titles are "Racism and xenophobia" and "The fight against discrimination as a State policy". In 2001 a book was published based on the seminar "The question of 'the other'". These activities continue to expand on the basis of research agreements signed with relevant bodies. New projects deriving from the research are mentioned throughout this part of the report.

99. ***Training and promotion.*** Courses, conferences and seminars have been prepared drawing on the research done in INADI, some of which have proved to be of national interest. The following deserve mention:

- "MERCOSUR Inter-University Conference against All Forms of Discrimination, Xenophobia, Racism and Related Forms of Intolerance" (with the participation of 248 professors and academics from Argentina, Brazil, Paraguay and Uruguay).
- Seminar entitled "Growing in equality. Equity between men and women" (addressed to heads of middle schools in cities in the interior of the country). A selection process was evaluated by UNICEF.
- Seminar entitled "Migrant women".
- "Impact of the National Programme of Training for Trainers against All Forms of Discrimination, Xenophobia, Racism and Related Forms of Intolerance", held in the Autonomous City of Buenos Aires, Neuquén and Misiones and addressed to EGB and polymodal teachers (with certificates given to those who attended). The selection process was evaluated by UNICEF.
- "Pilot experiment in schools of the Autonomous City of Buenos Aires on the experience of fighting discrimination in the classroom".
- "Public employees and discrimination". Two seminars addressed to public employees and organized by INADI and the National Institute of Political and Social Leaders (INCAP).

- "Introductory seminar on antidiscrimination training" Addressed to teachers and the general public and organized by INADI and the Syrian-Lebanese Society of Córdoba, the National University of Córdoba and the Tres de Febrero National University.
- "The Arab image in the West, the history of an illusion". Addressed to the general public and organized by INADI and the "Los Cedros" Foundation.
- Introductory training seminar-workshop for education policies "Collective identities, migrations and cultural diversity in Argentina". Addressed to middle-school and university teachers, organized by INADI, INCAP, the National University of Río Cuarto, the Syrian-Lebanese Society of S.M. Río Cuarto and sponsored by the Institute of the Arts and Sciences of Cultural Diversity of the Tres de Febrero National University, "Alarife" Programme of Comparative Research, and the Association of Technical Education Teachers (AMET)
- "National discussion days on the cultural crossroads, the intermingling of cultures and Mudejar culture in Argentina". Addressed to teachers and the general public and organized by INADI, the National Library, the Institute of the Arts and Sciences of Cultural Diversity of the Tres de Febrero National University, "Alarife" Programme of Comparative Research, the Chair of Islamic and Mudejar Art of the Faculty of Architecture, Design and Urbanism of the University of Buenos Aires and the Argentine Council for International Affairs.

100. As part of the prevention of discriminatory behaviour, it is a priority for INADI to prepare and to hold courses on antidiscrimination training and the strengthening of institutions addressed to NGO leaders, students and professionals, as well as to members of the armed forces and security forces; among them, to heads and members of NGOs representing the foreign communities living in the country, employees of the national Public Administration, minor public officials in direct contact with the citizenry, employees of the Public Administration of the Municipalities of Avellaneda, Quilmes and Morón; representatives of bodies that protect the rights of disabled persons, agents of the Federal Penitentiary Service, Federal Police agents and community leaders. Training symposia and lectures are also organized as part of the activities of the "Cultural Exchange" Programme carried out by the Institute jointly with the national Secretariat for Culture.

101. **Complaints centre.** This is devoted to receiving and analysing complaints and assisting and advising persons or groups of persons who feel they are victims of discriminatory practices. INADI works in the following way: once the truth of the allegation has been checked, it seeks a peaceful solution to the dispute through legal advice, administrative management, mediation and free legal aid.

102. Relations with the public have been without incident in recent years. In 2002, 1,092 different submissions were received in the form of consultations, official letters or requests for reports. In the same year 180 complaints were recorded and are now being dealt with, at the same time as those left over from 2001. About eight people come to ask for advice each day, which means a total of some 2,000 a year. The average number of telephone or e-mail requests for advice is 10 a day, from citizens, institutions or the media.

103. The causes of the 180 complaints received in 2002 concerned:

- Ethnic, national and religious affiliation (48)
- Politics and ideology (34)
- Disability (29)
- Age (8)
- Sickness (17)
- Gender (10)
- Socio-economic status (2)
- Sexuality (2)
- Physical appearance (1)
- Criminal record (1)
- Various handicaps (28)

104. Statistical analyses and descriptions of the situation with regard to discrimination have been prepared at the request of State, provincial and municipal bodies, the Legislature, the Judiciary, Ombudsmen, the media and NGOs. Information has been provided to the following entities: the National Women's Council, the General National Trade-Union Group, the Legislature of the City of Buenos Aires, the International Labour Organization (ILO), the Ministry of Labour, the Clarín Group, Página 12, Infotrans, the magazine "Para Ti" and the magazine "Noticias".

105. Moreover, training symposia have been organized for the Office of the Ombudsman of the City of Neuquén concerning complaints of discrimination and disability, pursuant to the agreement established between the two organizations. Mention should also be made of the training of technical and professional staff and the conference-workshop with the general public held in April 2002.

106. For the Committee's information we give some of the cases of greatest importance or impact from the year 2002, grouped according to cause:

- a) Ethnic, national or religious discrimination
 - Complaint No. 454, Leila Selem v. Sanfuentes. Discrimination by reason of a refusal to rent an apartment to a Jewish couple.
 - Complaint No. 587, President of the American Bar Association v. Army Chief of General Staff. Allegedly anti-Semitic remarks made by General Ricardo Brinzoni, Chief of Staff of the Armed Forces.
 - Complaint No. 612, The Toba Nam Qom community v. Police Force of the Province of Formosa. Ethnic discrimination and an attack on the community.

b) Discrimination against disabled persons

- Complaint No. 450, Claudio Waisbord v. Southern Winds. Discrimination, because a disabled person was prevented from boarding an aircraft in the airport of the City of Buenos Aires.
- Complaint No. 559, Juan Carlos Duetta v. Cabred College. Discrimination, because the appellant is deaf and was not allowed to register for a career as a teacher of the deaf.
- Complaint No. 605, Marcelo Lazzavechia v. Southern Winds. Discrimination, because a disabled person was prevented from taking one of their flights.

c) Socio-economic discrimination

- Complaint No. 604, Sergio Capocetti v. McDonalds. Socio-economic discrimination against streetchildren in a shopping centre.

d) Other

- Complaint No. 576, Tornielli v. Escudé. Discriminatory texts published in the daily newspaper BAE.

107. ***Pilot project for active mediation, the speedy resolution of disputes.*** The unit for the speedy resolution of disputes deals with complaints referred to it by the head of the INADI complaints centre, which by their nature can be resolved case by case by bringing the parties together, finding out first what kind of dispute it is and then trying to reconcile their positions. This service is offered in an attempt to avoid people having to travel to seek solutions. Some of the cases dealt with are:

- Between schools and migrant children
- Situations of neglect which, although they do not constitute clear cases of discrimination, can be resolved through the unit's assistance networks for the protection of citizens' human rights.
- Problems of health care in hospitals for refugees and disabled persons at risk.

108. ***Publicity.*** A wide-ranging publicity campaign was launched in March 2001 (at the end of the southern-hemisphere summer). The State media (Channel 7 and National Radio) broadcast messages or "spots" against discrimination. Widespread coverage was ensured by putting up posters in schools, banks, government buildings, health centres and transport terminals. With the same aim a radio campaign was launched with popular actors taking part. INADI publishes updated information about its aims and its work on the website www.inadi.gov.ar.

109. ***Documentation and information centre.*** Pursuant to Act No. 24,515 (which created INADI), in 2002 an area co-ordinator was appointed to set up the documentation centre, so as to have a place where the existing theoretical and institutional documentation on the subject could be consulted, recorded and stored. A bibliographical archive is being constituted on discrimination, xenophobia and racism, a policy of exchanging publications with other academic

and political institutions has been initiated and the centre is preparing to open to the public next semester.

110. ***Legal and technical service.*** This is designed to complement INADI's general activity through the internal circulation of the material produced, the promotion of compliance with antidiscrimination provisions in the administrative area and participation in drafting resolutions, laws and communications and handling proceedings. It also drafts and implements proposals for legal action. Its administrative work begins with the examination of the complaints submitted and the initiation of judicial action aimed at halting and/or remedying any possible harm caused by the act of discrimination. It concludes with the respective ruling.

111. ***Work experience.*** Pursuant to an agreement signed with the Faculty of Social Sciences of the University of Buenos Aires, students may fulfil their research requirements by working at INADI. Similar agreements exist with other private universities. Three courses for university students have been agreed, beginning in April 2002.

112. ***National prevention programmes.*** Since the beginning of 2001, four national prevention programmes have been organized to forestall acts of discrimination against specific sectors of the population. They are the result of a survey done in the INADI national complaints centre.

- a) *National programme to prevent discrimination against the elderly:* at the legislative level the programme took part, together with the Legislature of the City of Buenos Aires, in preparing a preliminary draft law on the elderly. Co-operation and technical assistance agreements have been signed with the National Institute for Retirees and Pensioners (PAMI) and with the Permanent Assembly for Human Rights (APDH). "National discussion days on old age and discrimination" have been held with the participation of civilian speakers and government bodies, as well as a symposium entitled "Building a society for all ages: intergenerational ties in a society for all and with all", financed by the Government of the City of Buenos Aires. A training programme for PAMI volunteers was held on the theme of age discrimination in the Buenos Aires City district and Buenos Aires province, later extended to the rest of the country.
- b) *National programme to prevent discrimination against the disabled:* together with the National Advisory Committee for the Integration of the Disabled, a cycle of antidiscrimination training and institutional strengthening was organized. A complaint was brought against the National Transport Regulation Commission (CNRT) for non-compliance with the law in force in the Autonomous City of Buenos Aires regarding the accessibility of public automotive transport for those with reduced mobility. A study has been prepared pursuant to Decree No. 914/97 concerning access to existing railway stations and those planned for construction and/or alteration. Work has been done towards strengthening the capacity of the disabled effectively to express their views and participate in decision-making, so that they can intervene in the determination, follow-up and assessment of public policy.
- c) *National programme to prevent discrimination against migrants, refugees and indigenous peoples:* an agreement was signed with the National Register of Persons for the purpose of creating a free advice bureau on the procedures for settling in the Argentine Republic. Likewise, a project has been submitted to the Regional Office of the United Nations High Commissioner for Refugees (UNHCR) concerning co-

operation to protect refugees. And a complaint has been lodged with the Human Rights Department of the Rector's Office of the University of Buenos Aires calling for the resolutions of the Higher Council banning young foreigners from the University to be repealed.

113. ***Institutional relations.*** Agreements have been signed to provide a framework of mutual assistance and collaboration in the following areas:

- a) *Public administration.* The National Institute for Retirees and Pensioners (PAMI), the City of Neuquén Ombudsman's Office and the Cassation Ombudsman's Office of the Province of Buenos Aires. The Ministry of Justice and Human Rights, the National Register of Persons, the Secretariat for Criminal Policy and Penitentiary Affairs, the Under-Secretariat for Security of the Ministry of the Interior (to train staff of the Federal Police, the National Gendarmerie, the Prefecture and the Prisons).
- b) *Communities.* The Comprehensive Civil Association for Development (ACI), the Bet El community, the Pedro B. Palacio "Almafuerte" Study Centre, the Sergio Karakachoff Foundation and the Foundation for Growth, Research and Development (FIDES).
- c) *Education.* The General Directorate of Culture and Education of the Province of Buenos Aires, the national Ministry of Education, the Secretariat for Education of the Autonomous City of Buenos Aires, the Organization of Ibero-American States for Education, Science and Culture (OIE) and the International Organization for Migration (IOM).
- d) *Municipal.* The municipalities of Avellaneda, Quilmes and San Martín.
- e) *Parliamentary.* The Chamber of Deputies of the Province of Buenos Aires.
- f) *Professional.* The Bar Associations of the cities of Azul, Buenos Aires, Comodoro Rivadavia, Corrientes, General Sarmiento, Jujuy, Marcos Juárez, Neuquén, Río Gallegos, Rosario, Santa Fe, San Isidro, San Luis, Trelew and Venado Tuerto; the Fourth and Fifth Judicial Circuit of the Province of Santa Fe; the Southern Bar Association, the Public Bar Association of the Federal Capital and the Argentine Federation of Bar Associations – to co-operate for the defence of fundamental guarantees.
- g) *Trade unions.* The Workers' Association of the State of Santiago del Estero (ATE) and the Confederation of Education Workers – on training and refresher courses for teachers.
- h) *Universities.* The Social Sciences Faculty of the University of Buenos Aires, the Legal and Social Sciences Faculty of the National University of the Littoral, Law Faculty of the National University of Lomas de Zamora, the University of Business and Social Sciences (UCES), the National University of La Plata and the National University of Rosario – for technical and academic assistance.

114. ***International relations.*** Although INADI's work belongs to the national sphere, it is nevertheless called upon to comply with the international obligations of the Argentine State.

Those obligations involve reporting on its activities, assessing and responding to matters dealt with by international bodies and, in general, co-operating in the universal struggle against discrimination. Given those premises, its work is the following:

- a) *Analysis and planning of documents.* INADI has studied and organized a great number of documents of this type, the most important being the preparatory documents for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban, South Africa, and the drafts of the Inter-American Convention against Racism and all Forms of Discrimination and Intolerance. In 2002, it prepared six documents summarizing the Durban Conclusions, two of which have been disseminated over the Public Administration's Internet network.
- b) *Preparation of documents describing and giving information on conflicts and their detection and outlining solution strategies for questions of discrimination, for presentation to international forums.* Among the main documents that have been prepared are the following:
 - "Judicial cases involving acts of discrimination"
 - "Assessment of the Third Preparatory Meeting for the World Conference against Racism, Durban, South Africa" (preparatory document for the Argentine delegation)
 - "Report on the situation of refugees in the Argentine Republic"
 - "Argentine antidiscrimination policy", drafted in English and Spanish
 - "National policy against racist political party platforms and measures to curb such trends"
 - "Summary and evaluation of the Programme of Action and Declaration of the World Conference against Racism, Durban, South Africa" (preparatory document for the Argentine delegation)
 - "A case of discrimination against migrants from neighbouring countries and its solution", in English and Spanish
 - "Summary of the conclusions of the Durban World Conference" (six documents)
 - "Basis for the implementation in Argentina of the National Plan against Discrimination"

Preparation of replies to questions and requests for advice and further information from international bodies.

The following were dealt with:

- Questionnaire from the Organization of American States (OAS) on a draft of the Inter-American Convention against Racism and All Forms of Discrimination and Intolerance
 - Preparatory document for the World Conference against Racism, Durban, South Africa
 - Document classifying the Durban Conclusions
 - Draft of a national plan against discrimination (see below "National Plan against Discrimination")
- c) *Participation in international forums and collaboration in preparing oral and written reports.*
- Human Rights Committee on the International Covenant on Civil and Political Rights. Report followed by questions (October 2000)
 - Committee on the Elimination of Racial Discrimination (CERD). Replies before the Committee to questions put forward by the experts on Argentina's fourteenth and fifteenth reports (March 2001)
 - Workshop on the application of international human rights standards by the national courts in Latin American countries, Montevideo (October 2001)
- d) *Participation in international meetings and drafting of statements to be submitted in advance in writing.*
- International Forum on Combating Intolerance organized by the Office of the Prime Minister of Sweden. The INADI expert was the only Latin American invited as a main speaker (January 2001)
 - Workshop on the formulation of strategies for the promotion of economic, social and cultural rights, organized by the United Nations (Buenos Aires, October 2001)
 - Two seminars on the implementation of human rights in the country organized for public officials and security authorities in agreement with the Human Rights Secretariat (July and September 2002)
 - Symposium to commemorate Human Rights Day, organized jointly with the Ministry for Foreign Affairs with special emphasis on discrimination and the Conclusions of the Durban Conference (December 2002)

XI. NATIONAL ANTIDISCRIMINATION PLAN

Background

115. In 2001, the Government of the Republic of Argentina, with the sponsorship of the United Nations Development Programme (UNDP), set out to prepare a National Plan against Discrimination, Xenophobia and Other Forms of Intolerance. The aim of this plan is to implement the Conclusions of the United Nations World Conference Against Racism, Racial Discrimination, Xenophobia and Other Forms of Intolerance held in Durban, South Africa, in August and September 2001.

116. The Plan will draw on a broad-ranging national dialogue that includes population groups in situations of vulnerability, non-governmental organizations, academic sectors, the parliamentary commissions with competence in this field and the government departments involved in its implementation. Specific, effectual measures will be proposed to combat discrimination, xenophobia and other forms of intolerance, measures susceptible of being implemented in Argentina that will enable effective protection to be offered to the most vulnerable sectors of society.

117. To that end an Interministerial Committee (IC) has been formed, composed of representatives of the Heads of the National Presidential Cabinet, the Ministry of Foreign Affairs, International Trade and Worship, the Human Rights Secretariat of the Ministry of Justice, Security and Human Rights and INADI. The IC will supervise the execution of the Plan by means of executive co-ordination, a task entrusted to INADI. A decree of the Executive was ready for signature as the present report was being drafted.

Functions of the Interministerial Committee

The Interministerial Committee will outline a national antidiscrimination plan on the basis of criteria of transparency and the guidelines laid down in the Declaration and Plan of Action of the Third World Conference adopted in Durban, South Africa, on 8 September 2001. For this it will have to:

- a) Determine areas of work by subject;
- b) Decide on the formation of work teams and how they will operate on the basis of a broad dialogue with groups in situations of vulnerability, NGOs and government departments involved;
- c) Designate its own officers and adopt appropriate rules of procedure for its work;
- d) Appoint facilitators for the work teams;
- e) Set guidelines for the facilitators' work and oversee its execution by means of an executive co-ordination body;
- f) Encourage participation at the provincial and municipal levels in providing input for the drafting of the Plan;
- g) Set deadlines for the work teams;

- h) Adopt the National Antidiscrimination Plan;
- i) Present the Plan to international bodies so as to raise funds for its implementation;
- j) Arrange with the national and provincial government bodies the effective implementation of the conclusions of the Plan.

Dialogue and consultation

118. The IC esteems that the following sectors should, in principle, be considered as groups in situations of vulnerability:

- Immigrants
- Refugees
- Indigenous peoples
- National, ethnic and linguistic minorities
- Religious communities
- Victims of gender discrimination
- Children
- Victims of discrimination on grounds of sexual orientation
- The disabled
- The elderly
- HIV/AIDS infected persons

The aim of the Plan is to propose policies on the basis of dialogue and consultation with these sectors.

Subject areas

119. Taking the subjects proposed by the Third World Conference against Racism held in Durban, it has been decided to divide the Plan into the following areas:

Civil rights (religious beliefs and communities, ombudsmen's offices, human rights, justice, security)

Political rights (civil service, political participation, political parties, refuge)

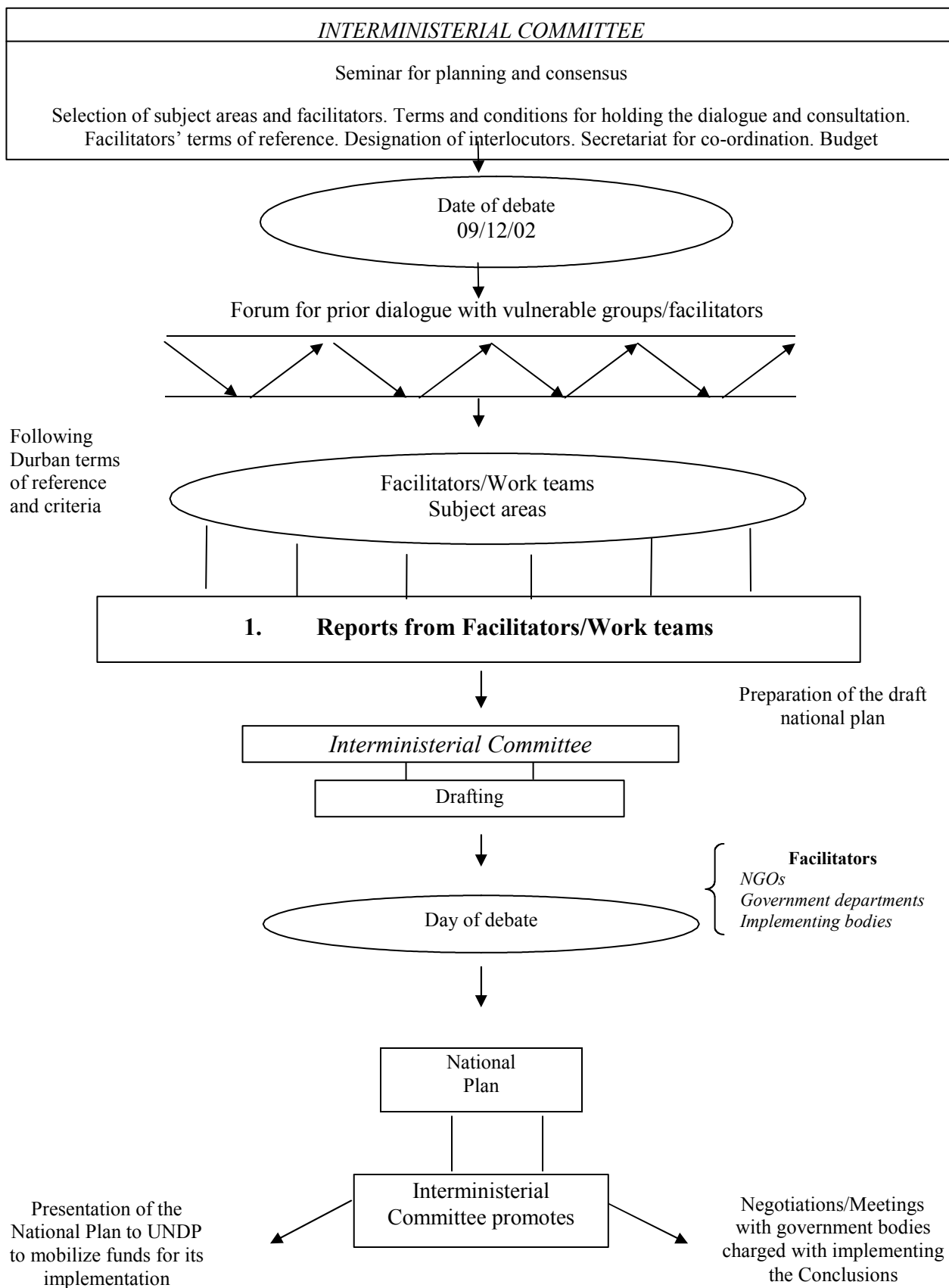
Economic rights (economy, statistics, labour)

Social and cultural rights I (co-operation, social development, environment, civil societies and/or NGOs, housing)

Social and cultural rights II (health, social security, education)

Culture and communication (science and technology, media, tourism)

PREPARATION OF THE NATIONAL ANTIDISCRIMINATION PLAN



120. Six facilitators will be responsible for promoting intersectoral dialogue and preparing the draft national plan. Their work is essential for the proper fulfilment of the objectives proposed. It is considered that facilitators must meet the following criteria. They must:

Be experts in the subject

Have professional qualifications

Enjoy the respect of NGOs

Enjoy the respect of the government departments concerned

Be skilled in dialogue

Be committed to the Durban goals

Be able to summarize and draft

The terms of reference for the facilitators shall be as follows:

- a) To study the Conclusions of the Durban World Conference and other similar documents so as to implement them in Argentina;
- b) To take part in and, where appropriate, co-ordinate the meetings for dialogue and consultation with the groups in situations of vulnerability, NGOs and government departments concerned with the subject of discrimination. Those meetings may be held in the federal capital or in the hinterland;
- c) To prepare partial or general drafts, minutes of meetings or other working documents for information or for debate with their interlocutors and the IC;
- d) To draft a plan of action applicable to the subject area assigned to them and submit it to the IC within the agreed time limit;
- e) To take part in the discussions and report on their work during the public days of debate or other meetings, which are programmed separately;
- f) To collaborate in the preparation of the final draft of the national plan;
- g) To comply in all their work with the instructions given them by the IC through the executive co-ordination body.

ARTICLE 3

XII. APARTHEID

121. As has been stated in earlier documents, no system comparable to the regime of apartheid exists in Argentina. The 1853 Constitution, which was the point of departure for a reorganization of the country's institutions and which remains in force as far as its principles are concerned, stipulates that "The Argentine Nation admits no prerogatives of birth or blood. In it there are no

special privileges or titles of nobility ...". The proclamation of freedom for slaves' offspring occurred in 1813 when the colony was in the process of gaining independence. The remaining slaves were freed once and for all in 1853.

122. Article 2 of the Constitution provides that "The Argentine Nation supports the Roman Catholic and apostolic form of worship". However, as doctrine and jurisprudence have made clear, the word "supports" should be understood purely in terms of economic contribution and not as implying discrimination. It has already been said that in the 1994 revision the requirement that the president or vice-president of the Republic had to be "Catholic" to be elected, a condition in force since the first Constitution, was eliminated.

123. The provision in the 1853 Constitution to the effect that "immigration from Europe shall be encouraged" should be understood as a norm of mid-19th century population policy and not as a system of social differentiation. The Supreme Court has stated this on many occasions, as is made clear in the judicial rulings cited in the first part of this report and under article 2, section VII. This provision was not repealed in the 1994 revision, because the political consensus that made possible the appeal to the Constituent Convention expressly excluded discussion of the part of the Constitution dealing with principles (the first 36 articles) and the revision was limited to the organic provisions.

124. What is more, Argentina has ratified the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention against Apartheid in Sports, the Slavery Convention and the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery.

125. This report is not trying to hide the existence of discriminatory social conduct which is clearly reprehensible and is what inspires national policies to combat intolerance. It is only pointing out that discrimination in its most extreme forms, such as apartheid, does not exist and that there are no legal or administrative provisions of any kind that could justify such a regime.

ARTICLE 4

XIII. PROHIBITION AND PUNISHMENT OF DISCRIMINATION

126. It has already been stated that the 1994 constitutional revision incorporated amparo proceedings as a form of "prompt and speedy action against any act or omission on the part of public authorities or individuals which actually or potentially infringes, restricts, jeopardizes or threatens rights and guarantees recognised in this Constitution, a treaty or a law in a manifestly arbitrary or illegal manner" (art. 43, para. 1). In the second paragraph it states that that action may be brought "against any form of discrimination". The same constitutional provision establishes the proceedings known technically as habeas corpus and habeas data, both legal institutions appropriate for defence against discrimination.

127. In compliance with article 4 of the Convention on the Elimination of Racial Discrimination, Act No. 23,592, in force since 5 November 1988, was adopted to punish illegal and criminal activities linked to discrimination. Its regulations have been incorporated in the Criminal Code and are therefore binding on all inhabitants of the country and all social organizations, including political parties.

128. Article 1 of Act No. 23,592 stipulates that "*anyone who arbitrarily impedes, obstructs, restricts or in any way impairs the full exercise on an equal footing of the rights and guarantees recognised in the national Constitution shall be obliged, at the request of the victim, to annul or desist from the discriminatory conduct and make restitution for the moral and physical injury caused*". And in the second paragraph it adds that "*particular consideration shall be given to discriminatory acts or omissions committed for such reasons as race, religion, nationality, ideology, political or trade-union views, sex, economic standing, social status or physical characteristics*". Likewise, article 2 of the same law provides for "*raising by one third the minimum and by half the maximum penalty for any offence ... when it is committed out of hatred for or to persecute a race, religion or nationality or with the aim of destroying, wholly or in part, a national, ethnic, racial or religious group*".

129. As far as organizations are concerned, article 3 of Act No. 23,592 provides for "punishing by imprisonment of one month to three years ... those who participate in an organization or engage in propaganda based on ideas or theories of the superiority of a race or group of persons of a specific religion, ethnic origin or colour, with the purpose of justifying or promoting racial or religious discrimination in any form". The same penalty shall apply to those "who encourage or incite to persecution or hatred against a person or groups of persons because of their race, religion, nationality or political ideas".

130. With regard to the specific question of the measures adopted to counter any discriminatory or racist political party platforms, reference should be made to article 38 of the Constitution which establishes that "Political parties are basic institutions of the democratic system. This Constitution guarantees the free establishment and exercise of their activities, as well as their democratic organization and foundations." That being the case, political parties must be organized in respect for the main international human rights conventions, among them the International Convention on the Elimination of all Forms of Racial Discrimination.

XIV. CASE LAW APPLYING ADDITIONAL PUNISHMENT FOR OFFENCES WITH INTENT TO DISCRIMINATE

131. Several judicial rulings have confirmed the application of Act No. 23,592, for example:

Regarding article 2 of Act No. 23,592 (Increase of penalty)

- Case of F. Montoya Navarro v. Argentine Football Association. In proceedings no. 99,142, the National Labour Court No. 61 in its ruling of 8 March 1999 considered that "to ban someone from being called on to be part of the Argentine football squad, not because he is a foreigner, but because he had represented his country of origin on an earlier occasion (art. 18 of the statutes of the Fédération Internationale de Football Association (FIFA)) is an act of discrimination and therefore unconstitutional, in that it impedes, obstructs, restricts and impairs the full exercise on an equal footing of the fundamental rights and guarantees recognised in the national Constitution."
- Romero case. The National Federal Criminal and Correctional Court No. 4, Secretariat No. 7, suit no. 13,237/99, in its decision of 21 December 1999, considered the fact that an individual had seized from the plaintiff the "kippa" he was wearing on his head in order to play with it and then refused to give it back, finally throwing it on to the pavement and calling him "lousy Jew". The judge concluded that the

established conduct constituted a crime of attempted robbery (articles 44 and 162 of the Criminal Code) with aggravating circumstances, by virtue of article 2 of Act No. 23,592.

Regarding article 3 of Act No. 23,592 (Limits to freedom of expression)

- Liliana Graciela Bonavota case. (Federal Criminal and Correctional Court, courtroom II, suit no. 13,682, registration no. 15,121, decision of 19 February 1998.) The case was brought *ex officio* by the head of the Correctional Prosecutor's Office No. 4 against the lawyer Liliana Graciela Bonavota who had expressed herself in offensive terms in the presence of legal officers regarding a plaintiff, alluding to his Jewish religion. Examining the case in question, the Federal Chamber of the City of Buenos Aires expressed its view that "It is clear that the rule under consideration does not seek to penalize statements solely for their discriminatory content, but requires that they thereby aim to encourage or incite third persons in the direction sought. It follows that the conduct denounced must involve far more than the expression of an idea or a sentiment and that the circumstance of its having discriminatory connotations cannot alone ensure that the conduct falls within the definition of this offence (article 3, Act No. 23,592)".
- Maradona case. (Federal Criminal and Correctional Court, courtroom I, suit no. 30,308, registration no. 995, decision of 20 November 1998) It was stated that the conduct described in article 3 of Act No. 23,592 required participation in an organization, encouraging or inciting to persecution or hatred, or engaging in propaganda aimed at justifying or promoting racial or religious or any other form of discrimination.
- Whalala case. (Federal Criminal and Correctional Court, courtroom I, suit no. 31,240, registration no. 1109, decision of 7 December 1999) The case was admitted, it being proven that the accused had engaged in selling films of a certain kind over the internet, among which were found some such as "The Eternal Jew" that were based on ideas of ethnic superiority and carried messages denigrating all members of the Jewish community, bearing in mind that the promotion and sale of such films would have been an ideal way of inciting hatred against that community.
- Case of Buela et al. Suit no. 31,240, decided by the National Appeals Court for Criminal and Correctional Affairs of the Federal Capital on 7 December 1999. Two persons were tried for circulating a film eulogizing the national-socialist regime. The court decided that "marketing a propaganda film produced by the German State in the time of the national-socialist regime, which thereby ceases to be a historical document and serves once again the purpose for which it was created, given its clear orientation towards racial hatred, constitutes the crime which, together with its punishment, is covered in article 3 of Act No. 23,592, namely, incitement to hatred against a community of persons by reason of their race, religion, nationality or political ideas". In the sentence, the legal definition given earlier was changed to "the crime of inciting hatred of a community of persons by reason of their race", which crime is covered in article 3, paragraph 2 of Act No. 23,592.

XV. ATTACKS ON ISRAELI EMBASSY AND AMIA (ARGENTINE-JEWISH MUTUAL ASSOCIATION)

In response to requests made by the Committee on the Elimination of Racial Discrimination at the last session, we shall now shed light on the status of the investigation into these two attacks.

Israeli Embassy

132. The inquiry into this attack is taking place in the Supreme Court of Justice in proceedings for which a special secretariat has been set up to investigate the incident. On 10 May 1999, the Court issued a decision in whose preamble it stated that evidence given in the case provide a degree of certainty allowing it to be affirmed that the attack on the Israeli Embassy was organized and carried out by the terrorist group called Islamic Jihad, the military arm of Hezbollah.

133. On 23 December 1999, the Court accepted as proven that on 17 March an attack was perpetrated against the Israeli Embassy and its Consulate using a car bomb which exploded outside the Embassy building. It also established that the attack had been carried out by Islamic Jihad, the military arm of Hezbollah, for which reason a person said to be the head of that organization has already been tried. In that same ruling, the Court ordered the investigation to concentrate on those members of the organization who were active in our country. At present the Supreme Court is focusing its action on the search for the actual perpetrators of the crime.

134. On 15 August 2000, a person of Pakistani nationality sought by INTERPOL for questioning in the case was detained in the city of Los Angeles.

It should be mentioned that various sectors have questioned the Supreme Court's action in the inquiry into the attack on the Israeli Embassy, which is one of the reasons why action for dismissal of several members of that Court was called for.

AMIA (Argentine-Jewish Mutual Association)

135. The inquiry into the attack on AMIA is being conducted in the Ninth National Federal Criminal and Correctional Court, secretariat no. 17, by Dr. Juan José Galeano. At present, with the co-operation of the plaintiff, steps are being taken to shed light on what took place, while at the same time separate investigations are under way concerning those involved and theories that require corroboration. In February 2000, the relevant order was issued to transfer the matter to oral, public trial, which began in September 2001 in the Third Oral Tribunal for Federal Criminal Affairs. Those hearings are continuing without prejudice to the ongoing investigations into the rest of the case. The competent departments of the Argentine Foreign Office have been following the case with regard to those aspects with international consequences, requests to other countries for co-operation and legal assistance etc.

136. On 1 September 1999, Memoria Activa presented a petition to the Inter-American Commission on Human Rights of the Organization of American States (OAS), alleging violations by the State of Argentina of the rights recognised in the American Convention on Human Rights. The Government of the Republic of Argentina proposed that the Inter-American Commission appoint an observer to assist in the oral hearings, who could check that they were accompanied by the appropriate guarantees. The Commission accepted the proposal of the Argentine Government.

137. In addition, by Decree No. 452/00, amended by No. 430/01, the Special Unit to investigate the attack against AMIA was set up. Pursuant to article 2 of that decree, the purpose of the unit is not only to assist with the requirements formulated in the case or linked to it, but also to carry out investigations on its own initiative. Its members are officials from departments dealing with terrorism-related matters in the Argentine Federal Police, the State Secretariat for Intelligence (SIDE), the Argentine Naval Command, the National Gendarmerie, the Federal Penitentiary Service and the Anti-Corruption Office. The work of all these is co-ordinated by an Executive Secretary assigned to the Secretariat for Justice and Legislative Affairs of the Ministry of Justice and Human Rights.

138. Furthermore, on 12 March 2002, the President of the Republic signed Decree No. 490/02 whereby the former head of SIDE and officers and former officers of that Secretariat were released from the obligation to maintain secrecy regarding SIDE's activities in the judicial inquiry concerning AMIA, solely to permit them to appear as witnesses in the case. This authorization does not extend to acts involving citizens of third countries or those linked to foreign intelligence services.

ARTICLE 5

XVI. LEGISLATIVE BACKGROUND

139. As has been previously reported, provision is made for the rights protected in the laws of the Argentine Republic to be enjoyed and exercised by all its inhabitants.

140. The Supreme Court has made it clear that the word "inhabitant" includes both nationals and foreigners and refers to those who reside in the territory of the Republic with the intention of remaining there, and inhabit it, even if they have not constituted a domicile with all the legal effects pertaining thereto. Without prejudice to the foregoing, Argentine jurisprudence has been complemented by the provisions of the human rights treaties by which the State is bound and which have constitutional rank in our country.

141. At the same time, article 14 of the Constitution states that "*all the inhabitants of the Nation enjoy the following rights in accordance with the laws that govern their exercise: the right to work and to engage in any lawful industry, to navigate and to trade; to petition the authorities; to enter, remain in, transit through and leave the territory of Argentina; to publish their ideas in the press without prior censorship; to use and dispose of their property; to associate together for useful purposes; to profess their religion freely; to teach and to learn*".

142. Likewise, as was stated in earlier reports, none of the rights in article 5 of the Convention is the subject of any restriction for reasons of colour or ethnic or national origin, except as concerns the exercise of political rights which, as in other countries, are subjected to limitations on the basis of nationality.

143. Moreover, the Constitution in chapter 1, article 20 "Declarations, rights and guarantees", states that "*Foreigners enjoy in the territory of the Nation all the civil rights of citizens; they may engage in their industry, trade or profession; own property and buy and sell it; navigate along the rivers and coasts; freely profess their religion; make wills and marry under the laws. They are not compelled to accept citizenship or to pay extraordinary compulsory taxes*".

144. It would seem that the Argentine Republic has shown great open-mindedness in welcoming foreigners and in its migrant tradition. However, in the 1853 Constitution, article 25, it says that *"The Federal Government shall encourage European immigration; and it shall not be able to restrict, limit or impose any tax on the entry into Argentine territory of those foreigners whose aim is to work the land, improve its industries and introduce and teach the sciences and the arts"*. An immigration total of nearly three million Europeans, Arabs and Jews, who arrived between 1880 and 1914 seeking better economic prospects, and thousands of Slovenian, Croat, Russian, Polish and Hungarian displaced persons and refugees, who came as the result of crises and persecutions that arose during the World Wars, were welcomed by Argentina. At the same time, problems also arose later with European immigration and through laws on residence and social defence, as well as several resolutions of the Ministry of Foreign Affairs and the National Migration Board, immigration was gradually circumscribed by means of health, judicial and police control mechanisms. At all events, since the numbers of people entering Argentina despite the restrictions was so great, there was a huge immigration.

ARTICLE 5 (A)

XVII. RIGHT TO EQUALITY OF TREATMENT IN THE TRIBUNALS AND OTHER ORGANS ADMINISTERING JUSTICE

145. The Constitution in its article 18 stipulates that *"No inhabitant of the Nation may be punished without previous trial based on the law in force before the act for which he is on trial, or tried by special commissions, or removed from the judges appointed by law before the act giving rise to the trial. No one may be compelled to testify against himself; or be arrested except by virtue of a written warrant issued by a competent authority. The defence by trial of persons and rights may not be violated"*. Hence it may be seen that there are no obstacles in the way of access to justice, nor any distinction made regarding the recourses available. More information is to be found in the section on article 2 referring to the work of INADI.

ARTICLE 5 (B)

XVIII. RIGHT TO SECURITY OF PERSON AND PROTECTION BY THE STATE AGAINST VIOLENCE

146. In addition to what is to be found throughout the report on the actions of State authorities to protect people against any acts of discrimination, there follows detailed information classified by vulnerable group.

XIX. PROTECTION OF INDIGENOUS PERSONS

Indigenous population

147. As was stated in the note preceding the present report, although a national census was held in 2001, various factors prevented an accurate tally of the indigenous population and so official statistics are still not available on its size.

148. Nevertheless, in March 2003 the National Institute of Statistics and Censuses began the first National Survey of Indigenous Populations, as a complement to the 2001 census, with the

assistance of the staff of the National Institute of Indigenous Affairs (INAI), civil agents from the different provinces and, as the result of an agreement signed at the end of February, the members of the Executive Committee of Argentine Indigenous Peoples (CEPIA). Thus it is hoped that when that survey is completed there will be more precise information about the size of the indigenous population. We trust we shall be able to bring this information to the oral hearings.

Their whereabouts

149. Indigenous communities are scattered throughout the national territory. There are no areas of high indigenous population density. Argentina is a country with a surface area of approximately 2,900,000 square kilometres and has regions of sparse population (Patagonia, for example). This has enabled indigenous communities to settle in different parts of the country, generally far from cities or urban centres, from which they were displaced in the past.

Their diversity

150. There are about 15 different ethnic groups, each with its own culture, language and other special features. Furthermore, as the result of successive migrations over many decades, families have been formed whose members come from different ethnic groups and so new communities have arisen.

151. The three characteristics referred to, namely, that they form a small part of society; that they are scattered over an extensive area; and that there are different peoples and communities, determine the fact that the execution of decentralized indigenous policies is itself highly fragmented. Although a national policy may be adopted on a given subject that includes "indigenous Argentines", reality immediately dictates that local ways of doing things or different events will intervene in its execution in the provinces, municipalities or districts where the indigenous people live.

152. In daily practice it is local officials – the police or judges in localities in the interior – who have to decide on problems that arise in the communities. The Nation may give guidelines, adopt policies, legislate or take on board international legal provisions, but these are carried out by an infinite number of officers scattered over far-off regions or in suburbs and big cities.

153. There is work to be done here that will require much effort and many years before society has sufficient information to comprehend the subject and a special task of training and education for agents of the administration, members of the security forces, civil servants and magistrates.

154. Because the indigenous communities are located in marginal areas, far from cities and industrial centres or petrochemical plants, it is not often that industrial development disturbs an indigenous community. However, there have been instances that have led to conflict. This was the case with the course of the North Andean gas pipeline laid through an area inhabited by communities of the Kolla people. The organization Greenpeace International took action on that occasion and INAI also intervened, holding meetings with the representatives of the firms Techint, Tecpetrol and Gasoducto Norandino Argentina S.A. In the end an amicable solution was achieved, with reparations for the injury done the communities involved.

155. There is at present a dispute between communities of the Mapuche people of the province of Neuquén and Repsol YPF S.A. over complaints of contaminated soil and ground water. This

is being heard by the Inter-American Commission on Human Rights, whose officers have made a visit of inquiry to the province of Neuquén.

156. There is also a debate going on about the exploitation of a gold mine near Esquel, with claims being made about the alleged harmful effects that would ensue from open-cast mining in the future, because of the use of arsenic. The matter has been widely discussed in the national press and in the city of Esquel and has caught the attention of national and provincial officials, various science professionals, NGOs and other sectors of civil society.

157. This shows that nothing can take place in secret or surreptitiously, because of the information available on the problem and the intervention of the relevant State bodies. What is more, INADI is keeping itself informed and staying in contact with the indigenous communities in the area involved in the present case. Their economies might be affected if the tourists who buy their crafts were to cease coming and if mining without sufficient guarantees regarding commercialization were to give rise to alarm.

Indigenous peoples' rights in the administration of justice

158. The indigenous peoples, because they are Argentinian, enjoy all the rights of the inhabitants of the Argentine Republic by virtue of the national Constitution and the other laws in force in our country. Furthermore, the new thinking that has gained currency throughout the world with regard to aboriginal peoples has also been adopted by Argentina.

159. As far as legislative measures to benefit indigenous peoples are concerned, the Argentine State has taken a fundamental step in the recognition of their rights by depositing its instrument of ratification of ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries. That ratification took place on 3 July 2000, the entry into force being from July 2001.

160. Although that Convention had already been incorporated by national Act No. 24,071/92, now that we have ratified it internationally and by virtue of article 75, paragraph 22 of our national Constitution, that international instrument ranks higher than the laws. Convention 169 is perhaps the most advanced international legal instrument on indigenous rights. Argentina is thus supporting a trend towards raising the legal status of aboriginal peoples. In this way it is reaffirming concepts such as "indigenous peoples" instead of the more restricted notion of "populations" or "communities", and "territories" to refer to the "totality of the regional habitat that the peoples in question occupy or use". It is also accepting the indigenous peoples' rights to use, manage and preserve the natural resources in their lands and their necessary participation in all matters affecting them and is assuming responsibility for developing, with their input, co-ordinated and systematic action aimed at protecting their rights and guaranteeing respect for their integrity.

161. As has been said in previous reports, the activities of INAI were decentralized by Decree No. 677 and the Institute was incorporated into the then Secretariat for Social Development, now the Ministry of Social Development and the Environment. Before that was done, INAI had been part of a programme for vulnerable groups within the area of Social Policies of the Secretariat for Social Development of the Presidency of the Nation. At present, approval of the new administrative structure of INAI by the Executive Office of the Cabinet of Ministers and the Ministry of the Economy is pending. Once that occurs, the National Institute of Indigenous Affairs will have the status of a Secretariat of State.

162. Progress concerning the particular rights pertaining to indigenous peoples and the higher administrative status given to the specific body charged with implementing State policy on indigenous peoples are, moreover, an expression of the national desire to right wrongs through legislation that would seek to achieve, at one and the same time, equality of rights and opportunities for that sector of the population that suffered discrimination in the past and the respect that their identity and cultural integrity merit in the context of the ethnic diversity of the country. In February 2003, indigenous leaders formed what is called the Executive Committee of Argentine Indigenous Peoples to elaborate the necessary procedures for setting up the Co-ordinating Council of Argentine Indigenous Peoples, which is the body envisaged in Act No. 23,302 to represent indigenous peoples.

Development Project for Indigenous Communities

163. November 2002 saw the beginning of the Development Project for Indigenous Communities (DCI) (Loan for Apprenticeship and Innovation, BIRF 4580-AR), which will extend over a period of three years. The total amount for this is \$5,892,000, which includes a contribution of \$800,000 from the Argentine Government.

164. The project is a synthesis of the development priorities for indigenous communities. The focus is on creating Protected Indigenous Areas (AIP). Given that the present legal framework for creating such areas requires new developments, negotiations and reforms at a high level, the approach has been modified and a more traditional indigenous development project has been designed to support initiatives for local development and the protection of biodiversity in three selected indigenous areas.

165. The three pilot areas have been chosen because the indigenous communities living in them have obtained collective title to their lands or are in the final stages of winning recognition of their ancestral rights of ownership. They are the Mapuche communities of Pulmarí in the province of Neuquén; the Diaguita-Calchaquí communities of Quilmes and of Amaicha del Valle in the province of Tucumán; and the community of the Kolla people of Finca Santiago in the province of Salta.

166. The project seeks to lay the foundations and create conditions for community self-development and has as one of its focal points the shared management of the natural resources in their lands. The strengthening of the communities, together with the sustainable use of their resources, will contribute to achieving the stipulations of the Constitution regarding indigenous peoples and communities, while at the same time guaranteeing for the whole of society appropriate conditions for biodiversity protection.

167. The challenge facing the project is to ensure that the development concept promoted by the communities becomes reality. To move ahead with these policies, the different peoples need to promote practices that, while respecting their diversity, provide feedback to a legal and regulatory model framework that would define the scope of a certain degree of functional autonomy for the indigenous peoples and communities where the management and exploitation of the natural resources of their territories is concerned.

168. Achieving the objectives of the DCI project will strengthen INAI in its efforts to improve the well-being of the indigenous peoples by providing them not only with legal security of landownership but also essential social services and, wherever possible, by creating protected

indigenous areas managed jointly by the local indigenous communities and the relevant government authorities.

169. Direct participation by the local indigenous communities in planning and realizing sustainable development and in studying the design and creation of protected indigenous areas reflects a strategic choice on the part of INAI. It is an attempt to understand biodiversity from the standpoint of cultural and political diversity: to recognise their rights to exist as peoples in the midst of nature. And this stems from the centrality of nature in the indigenous world view.

170. That is how the matter is understood by the Mapuche people which has on many occasions expressed its relationship to nature in the following terms: *"Mapuche society is a global social system merging all the components of community life into a single whole. Economic life is not a separate sphere, but part of daily life intimately interwoven with the social, cultural and political existence of the people."* And so it considers that there is no Mapuche development, but cultural development as a people. "Cultural" is understood not as a term of folklore reflecting "habits and customs" or "traditional practices", but as referring to culture in its fullest sense, linked to existence with full political and territorial rights.

XX. PROTECTION OF MIGRANTS

171. Act No. 22,439 of 1981 on migrant matters has been partially amended twice. Its latest Regulation was approved by Decree No. 1023 of 1994. The law is known as the "Videla law" having been enacted during the last military dictatorship and its repeal is now thought necessary.

172. There are at present several draft laws under consideration in Parliament to modify or repeal Act No. 23,439.

General policy to combat discrimination against migrants

173. The Argentine Republic has ratified the Protocol against the Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention against Transnational Organized Crime. That legal instrument led to the preparation of a Regional Agreement among the States Members of MERCOSUR and Associated States, adopted by their Ministers of the Interior on 30 May 2002, in order to apply preventive measures in the region to combat that kind of traffic and to insert provisions on that criminal activity in our laws.

174. Dealing with this matter has a direct impact on over-all policy to combat discrimination, since generally speaking migrant smuggling involves individuals with a greater degree of vulnerability in view of their situation of economic need. The result is that migrants entering the national territory in the manner described suffer different kinds of exploitation (in the workplace, sexually etc.).

175. Our country is committed to guaranteeing full respect for the human rights of migrants and their families. That is why we have assumed the responsibility of adopting the necessary legal measures to criminalize migrant smuggling, as well as the unlawful activities that make it possible or facilitate it. All this is in conformity with paragraph 30 of the Declaration of the third World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which affirms *"the urgent need to prevent, combat and eliminate all forms of trafficking in persons, in particular women and children"*.

176. With the Republic of Bolivia and the Republic of Peru, the Republic of Argentina has concluded migration agreements (Acts Nos. 25,098 and 25,099), which serve as a means of integration among the signatory countries. These agreements apply to the nationals of one party who wish to settle in the territory of the other to engage in formal work as employees and who submit to the respective consulate an application to enter the country; and to nationals of one party who are illegal migrants in the territory of the other, but who plan to legalize their status so as to engage in formal work as employees or as self-employed and submit an application for legalization to the relevant migration service. In these agreements there is a section entitled "Rights of immigrants and members of their families" which refers to the rights and guarantees enjoyed by migrants and their families.

177. The implementation of these agreements has, however, had negative consequences for Bolivian and Peruvian citizens who have not been able to meet the requirements of the instrument because of the way the migration authorities have acted. According to information provided by the Office of the Ombudsman of the City of Buenos Aires, while the agreements were in force many Bolivian and Peruvian nationals were ordered expelled, in clear violation of the State's international policy described in the previous paragraph. Likewise, the provisions of the agreements were not interpreted in terms of the objective of legalizing the migrant status of the greatest number of people, rather the interpretation was one linked to the doctrine of national security to be found in the "Videla law".

178. At the present time, the States members of MERCOSUR have signed an agreement on the free circulation of persons within the purview of the States Parties and so it is hoped that migration authorities will conduct themselves better in dealing with nationals from neighbouring countries.

In a recent ruling the judiciary decided that the attitude of the National Directorate for Migration in expelling persons who had children and family members in Argentina violated the Convention on the Rights of the Child and the American Convention on Human Rights. (Ruling in Alicia Benitez et al. v. National Directorate for Migration, (amparo), Administrative Tribunal No. 8, secretariat no. 15.)

179. In connection with a petition now before the Inter-American Commission on Human Rights and over and above the contents of that particular petition, the Argentine Foreign Office is promoting an agreement for amicable solution by means of a revision of the legislation on migration at present in force.

The Foreign Office considers that, in the light of international human rights standards, the law on migration at present in force in our country requires prompt modification. Among other things it should incorporate provisions to ensure unrestricted respect for the safeguards of the right to a fair trial, in particular in the context of the necessary procedures for an expulsion from the national territory, and for the rules that guarantee non-discrimination.

It is considered very important when that is done to tackle not only formal trial-related matters, but also certain requirements involving monetary disbursements that present insurmountable obstacles for needy immigrants

At the 118th regular session of the Inter-American Commission on Human Rights, held in Washington D.C. in October 2003, the Argentine delegation took part in hearings and working meetings on cases and petitions before the Commission.

The Argentine Foreign Office has also begun the necessary procedures for the adoption and ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by the United Nations General Assembly on 18 December 1990. It does this on the understanding that that action will not only contribute to raising our present standards to international levels but will also mean the endorsement of the Argentine Government's policy of firm commitment to human rights, particularly those of highly vulnerable sectors such as migrants and their family members.

XXI. PROTECTION OF REFUGEES

180. Surveys done by UNHCR suggest the presence of a refugee population of 2,431 persons in September 2002, though there are no official figures. Likewise, there are some 1,500 asylum-seekers whose cases are as yet unresolved and who are therefore entitled to all the rights and guarantees pertaining to recognised refugees.

181. As concerns applications for asylum in 2002, official figures indicate that 360 applications were received from persons from 23 different countries, mainly in Latin America, Africa and Asia. In the same year, 77 persons voluntarily gave up applying and 174 persons failed to renew their temporary documentation.

182. Although there have been internal population displacements, they have occurred for economic reasons and not because of armed conflict.

Refugee rights

183. In accordance with the provisions of paragraphs 34 to 36 of the Programme of Action of the third World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (Durban, 2001), in Argentina both refugees and asylum-seekers enjoy identical treatment to that of nationals with regard to freedom to practise their religion and to give religious instruction to their children. Refugees have the right to free access to law courts; the right to obtain employment, to receive free primary education, to pursue secondary and higher education, to receive medical assistance in public hospitals and health centres, to move around freely throughout the national territory, to receive identity papers and, if they lack those, travel documents. Refugees also have the right to acquire movable and immovable property, as well as other related rights.

184. As the formalities for recognition of their status begin, asylum-seekers receive an official document of "unconfirmed residence" issued by the Secretariat of the Refugee Eligibility Committee (CEPARE). Once their status has been recognised, they are given papers similar to those of foreigners residing legally in the country. After three years, at their request and if they fulfil the legal requirements, they may obtain permanent residency.

185. The rights described are protected under the law by virtue of the application of the 1951 Convention relating to the Status of Refugees and the 1967 Protocol, international instruments which, under the terms of the Constitution governing the hierarchy of legal provisions, take precedence over national laws. In addition, given that in no case are refugees accorded less favourable treatment than foreigners in general, the rights and guarantees of foreign citizens established in the Constitution are theirs also.

Detentions

186. No one can be detained in Argentina just because he or she is a refugee or asylum-seeker. Where a request for the extradition of a person recognised by the Government of Argentina as a refugee is made by the country of origin of that person, the request is rejected without further ado by the Ministry of Foreign Affairs.

187. If the person being sought is an asylum-seeker, there can be no extradition proceedings until a decision has been taken on the application for refugee status. In such a case the Refugee Eligibility Committee gives priority to that decision. If the applicant is accorded refugee status, the request for extradition is rejected and if he had been detained under an international arrest warrant, he is immediately released.

Residence and citizenship

188. In 2002, permanent residence was granted to 24 refugee applicants and an extension of temporary residence to another 47. Argentine citizenship is granted by judicial action and the beneficiaries are not obliged to inform the Eligibility Committee about it.

Assistance

189. The Argentine State offers all refugees and asylum-seekers free public health care and first aid, on the same terms as its nationals. It also offers free primary education to all refugees and asylum-seekers of school age and to those adults who request it. Likewise, it guarantees to provide temporary documents to asylum-seekers and permanent papers to recognised refugees.

190. Civil society plays an essential role in providing assistance to refugees and asylum-seekers. In 2002, refugee aid organizations such as the Catholic Commission for Migration and CAREF gave assistance with housing, food, clothing, Spanish-language teaching, vocational training, loans for small business ventures, psychological help, employment training, sports etc.

Determination of refugee status

191. Decisions on according refugee status go through the Refugee Eligibility Committee (CEPARE), an interministerial body set up by National Executive Decree No. 464/85. It is made up of units from the National Directorate for Migration, the Ministry of Foreign Affairs and the Regional Office of UNHCR, this last without a vote.

192. The eligibility procedure has several stages, beginning with personal interviews and replies to questionnaires written by the CEPARE secretariat, the granting of temporary papers to the applicants and a preliminary assessment by the eligibility officer and the secretariat and ending with the presentation of the case to the plenary Committee, which makes its decision on the basis of established resolutions.

193. CEPARE decisions are subject to administrative appeal before the Ministry of the Interior, following prior ruling by the Human Rights Secretariat of the Ministry of Justice, Security and Human Rights. Finally, like any administrative decision, this can be reviewed by a judicial instance.

194. In 2002, important changes took place in the eligibility procedure. So as to improve the mechanisms for studying applications and to reduce the time needed for the consideration of cases, the Government signed on to a programme of co-operation with UNHCR. Under the programme the Secretariat was reinforced by the recruitment of additional staff, the training of staff officers and the creation of a new data base.

195. The programme also proposed a new procedure with changes to the eligibility forms, a more thorough analysis of the objective situation and greater use of personal interviews. After a probationary period, the proposed changes were approved by CEPARE and have now been made. The changes aim to provide more material for analysis by the Committee and to reduce the time required to reach a decision. The first stage of the programme was completed in March 2003 and a three-month extension was approved, ending in July of that year.

Cases decided in 2002

196. In 2002, CEPARE granted refugee status to 78 persons. In the same period 523 applications were rejected. By reason of the established time-frame either for the appeals procedure or for the regularization of a migrant's situation, asylum-seekers whose applications were rejected in 2002 would not have been compelled to leave the country in the course of that year.

Significant events in 2002

197. The considerable increase in applications for asylum observed from 1998 onwards meant that the average number of cases per year quadrupled over two years, creating a bottleneck that seriously hampered the work of the Committee and its secretariat. The following table illustrates the situation:

Applications for asylum:

1997:	322 cases
1998:	602 cases
1999:	1,456 cases
2000:	1,320 cases
2001:	861 cases

Cases decided by CEPARE:

	Recognised	Rejected
1997:	145	47
1998:	102	121
1999:	119	483
2000:	82	97
2001:	64	446
2002:	78	523

198. The situation created by the unusual increase in applications recorded between 1998 and 2001 explains the difficulties the Committee had to face in evaluating and resolving cases and the consequent delay in processing them. In 2002, the Government's efforts to deal with the

situation and the launching of the programme of co-operation with UNHCR have made it possible to increase the CEPARE secretariat's capacity to assess cases, thus considerably reducing the number of cases awaiting decision.

199. In addition, the foundations have been laid for improved mechanisms and a sustainable reduction in the time taken to determine the eligibility of asylum-seekers. This, together with the decline in the number of applications in 2002, leads one to expect a substantial narrowing of the gap between pending and resolved cases in the course of 2003.

XXII. PROTECTION OF WOMEN

200. The National Women's Council, which since 1999 has been part of the Executive Office of the Cabinet of Ministers, is the authority entrusted with the promotion and protection of the rights of women. Among its objectives, pursuant to the provisions of paragraph 69 of the Declaration of the third World Conference against Racism (Durban, 2001), is that of promoting public policies with a gender perspective which can help to overcome the various forms of discrimination against women and encourage appropriate social conditions for guaranteeing women the effective exercise of their rights.

201. The Council intervenes in the manner indicated in the following areas:

- a) **Health:** to promote women's right to comprehensive health care (reproductive, mental and occupational health);
- b) **Education:** to analyse stereotyped and discriminatory attitudes and behaviour in schools and other educational institutions;
- c) **Justice:** to guarantee women access to justice and co-ordinate measures to ensure that public bodies discharge their responsibility to eradicate violence against women;
- d) **Human rights:** to ensure the widespread application and promotion of fundamental human rights, guarantee access to information and encourage women's full and equal participation in the country's political, social, economic and cultural life;
- e) **Work:** to incorporate the gender perspective in labour policy at the national and provincial levels and take action to regulate domestic employment.

202. During the year 2000, the National Women's Council completely redesigned the Federal Programme for Women with the aim of acting to give effect to equality of opportunities for men and women as an indispensable condition for the achievement of social equity. Thus detailed work was done to plan the activities under the Institutional Strengthening Component, laying special emphasis on reinforcing the Provincial Women's Offices.

203. Furthermore, the increasing demand from the public for individual help with various social problems generated a need for a counselling, referral and monitoring service providing direct assistance at the grass-roots level. The Council set up such a service in 2000 and created the corresponding technical team. The first task was to gather the information needed for the construction of a data base on the services to which women could be referred for assistance. A telephone advice line was set up at the same time.

204. Systematic training was introduced for the staff to enable them to provide an efficient service and a team of professionals was formed to specialize in problems of violence and gender. Technical and psychological support was also provided for the members of the team in order to enhance their performance.

205. A total of 1,300 interviews had been conducted by August 2001. The Federal Capital accounted for 53 per cent of this total, the province of Buenos Aires for 44 per cent and the other provinces for three per cent. A breakdown of the figures by sex showed that 85 per cent of the applicants were female and 4 per cent were male; the remaining 11 per cent were institutions.

206. The percentage breakdown by reason for application was as follows:

Legal	45.58%
Violence	22.05%
Sexual abuse	0.04%
Sexual harassment	0.13%
Employment	18.40%
Health	0.50%
Benefits	0.80%
Housing	0.30%
Information	11.90%
Training	0.30%

207. The number of interviews by age were as follows:

Under 20	26
21 to 35	220
36 to 50	217
51 to 65	73
66 and older	11

XXIII. PROTECTION OF THE DISABLED

208. The problems of discrimination are taken carefully into account in all areas of government policy, although, among vulnerable groups, persons with different capacities are those who have suffered least from flagrant acts of that nature. As a result, few cases are brought to court in which the victim of acts of discrimination is a disabled person. That is corroborated by INADI, which is the body that, together with the National Advisory Committee for the Integration of the Disabled (CONADIS), prepares general policy to combat discrimination of that kind.

209. By way of illustration, one should point out that CONADIS, although only empowered to urge and recommend to the person committing an act of discrimination that he desist, while also

advising referral of the matter to the competent body, plays an important and leading role in fostering compliance with antidiscriminatory norms. Among its activities in 2001, CONADIS implemented a plan of action continuing into 2002 and containing measures to prevent acts of discrimination; to protect people against discrimination; and to combat prejudice by promoting understanding and solidarity. A highlight of the plan is its inclusion of the concept of "litigation without cost" as a benefit accorded to all disabled persons taking legal action in relation to their disability, whether as plaintiffs or defendants.

210. Part of the above-mentioned plan of action is the study, analysis and implementation of a change to the Taxes on Profits Act to take account of the situation of disabled persons. Further, in the context of the plan a project was to be carried out providing for the intervention of CONADIS to be required in all cases where the *thema dissidendum* was disability-linked, whether in order to create rights for or to limit the rights of those who, as plaintiffs or defendants, were involved in a lawsuit.

211. In compliance with the provisions of paragraph 57 of the Programme of Action of the Durban World Conference, which "urges States ... and encourages non-governmental organizations and the private sector to address the situation of persons with disabilities", the Human Rights Secretariat of the Ministry of Justice and Human Rights sponsored the formation of a working committee to prepare a preliminary draft of regulations for Act No. 25,280, which approved the Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities. The Working Committee was set up by resolution no. 192 of the Ministry of Justice and Human Rights, dated 8 April 2002.

212. The members of the Committee were both government institutions with competence regarding disability and organizations of civil society, namely: the Human Rights Secretariat of the Ministry of Justice, Security and Human Rights, CONADIS, the Human Rights Department of the Ministry of Foreign Affairs, INADI, the National Council for Children, Adolescents and the Family, the General Audit Office, the Unit for Disabled Persons and Vulnerable Groups of the Ministry of Labour, the Disabled Institute of the General Confederation of Labour, the Department for the Disabled of the Argentine Workers' Union (CTA), the Secretariat for the Disabled of AMIA and the Permanent Forum for the Advancement of Persons with Disabilities (Foro Pro). Also co-operating in the work of the Committee were various NGOs in the field of disability, such as the civil association ZOE, whose members are of under average height.

213. The Committee concluded its work on 3 December 2002. The draft regulations were submitted on that occasion. Among the proposals contained in the draft was the creation, within CONADIS, of a committee to oversee compliance with the Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities. That committee would be made up of public bodies and NGOs in the field of disability and of human rights. It would have autonomy in working towards its goals and would be supported by CONADIS and the relevant government departments. In its conclusions the Working Committee presented proposals for legislation in those areas where it had noted an absence of provisions concerning disability. It is important to highlight the initiative that created this Working Committee, since it fostered an open dialogue between state officials and civil society about the regulations for a regional human rights instrument, something that had not happened in the country before.

214. Later, in May 2003, with the valuable experience of the Working Committee as inspiration, an agreement was signed to set up a committee to assess the follow-up to the Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities.

The agreement was signed by four NGOs: the CTA, AMIA, Foro Pro and the Archbishopric of Buenos Aires. Various public bodies and other NGOs with competence in the area of disability and human rights were invited to participate, namely: CONADIS, the Human Rights Secretariat of the Ministry of Justice, Security and Human Rights, INADI, the General Audit Office, the National Council for Children, Adolescents and the Family and the national Ombudsman.

The agreement took as a precedent the Working Committee set up by a resolution of the Ministry of Justice, Security and Human Rights and described above.

The work of this Follow-up Assessment Committee will be to do everything possible to ensure implementation of the provisions of the Convention and to publicize its text, the reports the Committee drafts and the actions it promotes, as well as to co-operate with the public bodies with primary competence in the promotion of human rights for the disabled.

When the agreement was signed, stress was laid on the importance of encouraging co-operation between NGOs and public bodies in the analysis and assessment of compliance with the international human rights conventions adopted in current national legislation.

Finally, in connection with the actions to be undertaken by the Follow-up Assessment Committee, the NGOs that founded the Committee together with various government bodies invited for the purpose prepared a preliminary report on the situation of persons with disabilities in Argentina, which was submitted to the national Government for its consideration on 23 September 2003 at a ceremony attended by a wide range of organizations from civil society and of government officials.

215. Another entity, the Secretariat for Human Development and the Family of the Ministry of Social Development and the Environment, has taken action to eliminate discriminatory barriers, through, for example, the following programmes:

- Programme for the Integration of Disabled Persons. The aim is to promote the social integration of disabled persons, calling on the different sectors of the community to participate in the process by having the organizations of each municipality associate in planning and carrying out activities. These are geared to the integration of disabled persons through their active participation, thereby providing the community with the means to dispel myths, get rid of prejudices and prevent discrimination against the disabled and leaving the organizations already equipped for the task.
- Programme of Institutional Assistance for Disabled Persons. The aim is to have both governmental and non-governmental institutions working in this field train people in the community to assist the social integration of disabled persons, and to create family and community links.
- Protection of Disabled Persons. Within the Under-Secretariat for the Elderly of the Ministry of Social Development and the Environment the creation of a Federal Council of the Elderly has been proposed. This is in obedience to current thinking

concerning negative discrimination which recommends having elderly people intervene in the decision-making that concerns them.

216. Despite what has been said, there are certain regulations in force in Argentina that restrict access to social benefits by reason of the individual's migrant status, as also the number of years' residence in the country. In most cases proof is required that the formalities for permanent settlement have been completed or that the person has resided in Argentina for 20 years. Some local legislations guarantee access to social services regardless of migrant status (Act No. 664 of the City of Buenos Aires Legislature) and in other cases the courts have decided to extend state social benefits to foreigners whatever the length of their residence in Argentina.

ARTICLE 5 (C)

XXIV. POLITICAL RIGHTS

217. Article 37 of the Constitution stipulates that: "Suffrage shall be universal, equal, secret and compulsory. Real equality of opportunity for men and women to accede to elective or party office shall be guaranteed by means of positive actions in the regulation of political parties and the electoral system."

218. Here the Constituent Congress provided for a specific application of the principle of equality enshrined in article 16 of the Constitution by reason of sex and allowed the Congress to apply the principle of "positive discrimination" to guarantee equality of opportunity and treatment for men and women where access to elective and party political office is concerned. The positive discrimination consists of actions to create a differential situation for the group that has suffered negative discrimination and is aimed at combating such negative acts. An example is the law on the "women's quota", which gives a privilege to women by reserving at least 30 per cent of elective posts for them.

219. As was stated in Argentina's fifteenth periodic report, pursuant to article 1 of Decree No. 2135 of 18 August 1983, approving the amended text of the National Electoral Code (Act No. 19,945 as amended by Acts Nos. 20,175, 22,838 and 22,864), citizens of either sex may vote provided that they are nationals by birth or by naturalization, over 18 years of age and free of any of the disqualifications listed in the Decree.

220. Article 2 specifies who shall be excluded from the electoral roll. With regard to detainees and prisoners, subparagraphs d) to k) stipulate the length of time during which they are ineligible to vote. A repeal of these provisions is currently under study, at the request of the Government Procurator for the Prison System.

221. With regard to the requirements for participating in government, article 48 of the Constitution provides that *"to be a deputy it is necessary to have reached the age of 25 years, to have been a fully qualified citizen for four years and to be a native of the province that elects the deputy or to have had two years' residence therein immediately prior to the election"*.

222. Article 55 of the Constitution gives the requirements for election to the Senate, namely, to have reached the age of 30 years, to have been a citizen of the Nation for six years and to be a native of the province that elects the senator or to have had two years' residence therein immediately prior to the election.

223. To be elected President or Vice-President of the Nation one must have been born in Argentine territory or, if born in a foreign country, one must be the child of a native citizen, as well as possessing the other qualifications for election as a senator (article 89 of the Constitution). As has already been said, since the 1994 constitutional revision, belonging to the Roman Catholic and Apostolic religion is no longer a requirement for being President of the Republic, as it was in the 1853 Constitution.

224. Where policies to counter discrimination against women in the exercise of their political rights are concerned, on 28 December 2000 Decree No. 1246 was issued regulating the Women's Quota Act No. 24,012, adopted in 1991, and replacing Decree No. 379/93. This new regulatory decree guarantees the effective application of the Act and establishes general criteria for its uniform implementation by political parties and electoral tribunals. It clarifies and guarantees once and for all that female candidates have access to the lists and are placed on them and permits their genuine and fair inclusion in accordance with the minimum quota required by the Act and with the provisions of the Constitution (art. 37). The Decree was part of the amicable solution proposed by the Inter-American Commission on Human Rights when it declared admissible case no. 11,307 – Maria Merciadri de Morini – and was based on respect for the rights contained in the American Convention on Human Rights.

225. Act No. 24,012/91 and its earlier regulatory decree had provided for a sharp increase in the numbers of women elected as national deputies and had had a powerful impact in the provinces, which enacted similar quota laws. However, a number of decisions of the National Electoral Tribunal, based on mistaken interpretations of the spirit of the Act, established precedents that led to the fixing of a ceiling of about 28 per cent for women deputies from 1997 on.

226. What is more, only insignificant numbers of women were elected to the Senate. The 1994 constitutional revision established direct voting in elections to the Senate from 2001. Article 1 of Regulatory Decree No. 1246/2000 states that "the scope of application of article 60 of the National Electoral Code replaced by Act No. 24,012 shall extend to all the elective posts of national deputies, senators and members of constituent assemblies".

227. All the articles of the new Decree faithfully respect the objectives of the Act and its underlying principles and are not susceptible of contrary interpretations, thus removing one of the problems arising out of the earlier Decree. Thus it establishes that the 30 per cent quota set by the Act is the minimum and shall apply to all the candidates on a list, but shall not be deemed filled unless it is also applied with respect to candidates of political parties, confederations or ad hoc alliances standing for re-election to previously held seats.

228. The National Women's Council was responsible for disseminating the new Decree throughout the country to the population at large and especially to the leaders of political parties, public prosecutors and electoral tribunals and to politicians. When the time came, it monitored compliance with the quota rule in the nation-wide lists for Senate elections and the re-election of national deputies, maintaining direct contact with the electoral tribunals and public prosecutors in the country's 24 electoral districts. It lodged eight applications for denial of legal approval of lists in the city of Buenos Aires and in three provinces. It succeeded in agreeing uniform criteria for the interpretation of the Act and the Regulatory Decree with most of the electoral tribunals and public prosecutors throughout the country. And it conducted a vigorous campaign in the media to publicize the action taken.

229. In the national elections of 14 October 2001 women achieved the minimum 30 per cent of seats in the national Congress, winning 101 seats in the two Chambers: 76 deputies and 25 senators.

230. There have also been rulings favourable to the application of the quota rule in elections to professional associations, such as that relating to the Federal Capital Bar Association, case no. 10,958/2000, Marta Paz et al. v. Public Bar Association of the Federal Capital concerning investigation procedure, heard by the Administrative Court Judge. The action was brought by the Ombudsman's Office of the City of Buenos Aires in connection with a complaint lodged with that Office concerning the elections to the Bar Association of the Federal Capital. It challenged the lists submitted for official approval on the ground that none of them met the 30 per cent "women's quota" requirement established by Act No. 24,012.

231. The Ombudsman, in his resolution no. 0495/00, urged the Association to revise its election regulations concerning women's participation in and eligibility for electoral lists for the Association's internal bodies, to bring them into line with the current legislation. The preamble to the resolution stated that, regardless of the applicability or otherwise of Act No. 24,012 in its broader or narrower interpretation, the Association was not exempted from compliance with the provisions of the Convention on the Elimination of All Forms of Discrimination against Women and that, in a broad sense, the same interpretation could be applied to article 37 of the National Constitution and article 36 of the Constitution of the City of Buenos Aires.

232. In July 2001, in case no. 10,958/2000 referred to above, Administrative Court Judge ruled as follows: *"12) ... It must be made clear that the issue in this case is to give effect to the recognised right of women lawyers who are graduates of the Bar Association of the Federal Capital to be candidates in that body's elections and to be elected. Affirmative action, in the form of the 'women's quota' must be taken to ensure that women lawyers have the same real opportunities to be elected as their male colleagues, for they are in a disadvantaged situation ..."*. The ruling granted the application and confirmed *"the right of the plaintiffs and, in general, of all women graduates of the Bar Association to a minimum quota of 30%, in accordance with Act No. 24,012, in the lists of candidates for election, with the possibility of being elected ..."*.

ARTICLE 5 (D)

XXV. OTHER CIVIL RIGHTS

Right to freedom of movement and residence within the border of the State

233. As already stated, the right to freedom of movement within the national territory is recognised in the national Constitution. The present law on migration is, as has been said, in the process of being repealed and the new legislation will guarantee a greater degree of freedom of movement and transit.

With regard to foreigners who have settled in the Republic, the bills to repeal the migration law will expressly revoke the obligation to establish one's domicile in a specific area of the country, thus ensuring freedom of movement.

Right to leave any country, including one's own, and to return to one's country

234. The Argentine Constitution guarantees to all the inhabitants of the nation the right to enter, remain in, transit through and leave the territory of Argentina, in accordance with the laws governing the exercise of such rights. As just mentioned, the Congress is to repeal the present law on migration, which was grounded in the doctrine of national security so costly for human rights in the Latin American region and enacted by the last military dictatorship. That repeal will ensure greater recognition and protection of the rights of those who enter, return to or leave Argentine territory.

Right to nationality

235. As stated in previous reports, pursuant to Act No. 346, the following are Argentine:

- a) All persons born or who may be born in the territory of the Republic, whatever the nationality of their parents, except for the children of foreign ministers and diplomatic staff residing in the Republic;
- b) Persons born in a foreign country whose parents are native Argentines and who opt for the citizenship of their origin;
- c) Children born in legations or on warships of the Republic;
- d) Children born in neutral maritime territory under the Argentine flag;
- e) Nationality is acquired independently of matrimonial or extra-matrimonial filiation and of the person's sex. It is therefore clear that under the legislation in force, men and women enjoy the right to nationality on equal terms.

236. The regulations of the above-mentioned Act stipulate that the children of a native-born father or mother shall have citizenship upon request simply by producing evidence of that fact. In the case of children under 18 years of age, whose father or mother is a native Argentine, and who are not recognised as nationals of the State in which they were born, or who for any other reason are stateless, Argentine citizenship may be requested for them by the person exercising parental authority, provided they produce evidence that the child meets the above conditions. This amendment was introduced by Decree No. 231/95 of 2 August 1995, which in addition allows the procedure to take place in Argentine consular offices, without the need to resort to the Federal Judiciary.

The following progress in respect of the enjoyment of the right to nationality should be stressed:

- a) The current Argentine legal system makes no provision for the loss or cancellation of Argentine nationality. Pursuant to Act No. 23,059, Act No. 346, as amended by Acts Nos. 16,801 and 20,835, is re-established as the law in force and all other amendments, including those in Act No. 21,795 on the cancellation and loss of nationality, are repealed;
- b) The provisions in article 3 of the above-mentioned Act "declare invalid and without legal effect the losses and cancellations of Argentine nationality determined pursuant

to articles ... of the de facto Act No. 21,795 and those that occurred when the de facto Act No. 27,610 was in force", it being established in article 4 that "those affected by these provisions shall recover their Argentine nationality fully from the entry into force of this Act";

- c) Act No. 24,533 introduced amendments to articles 10 and 11 of Act No. 346. This amendment of a formal nature aims to streamline procedures for obtaining citizenship papers.

Right to marriage

237. According to current legislation, the definition of marriage is: the giving of full and free consent to wed by a man and a woman in the presence of the authority entitled to conduct the ceremony. The law sets the minimum age for marriage at 16 for women and 18 for men. If those requirements are not met, the marriage is invalid. It follows that everyone is free to choose a spouse and to marry.

Right to own property alone and in association with others

238. According to article 14 of the Constitution, all inhabitants of the Nation enjoy, inter alia, the right to use and to dispose of their property.

According to article 17, *"Property is inviolable and no inhabitant of the Nation can be deprived thereof except by virtue of a judgement founded on law. Expropriation for reasons of public utility must be authorized by the law and compensated for in advance. ... All authors or inventors are the exclusive proprietors of their work, invention or discovery for the term granted them by law. The confiscation of property is hereby abolished forever in the Argentine Criminal Code ..."*.

Right to inherit

239. As mentioned in earlier reports, the law on succession is contained in the Civil Code. The main articles concerned are:

Article 3279: *"Succession is the transfer of the active and passive rights that form the legacy of a dead person to the survivor who has been designated by the law or by the testator to receive it. The person designated to receive the legacy is called the heir in this Code."*

Article 3288: *"All natural or legal persons enjoy the ability to inherit or to receive a legacy, unless the law forbids it."*

Article 3289: *"There are no legal disabilities that apply to inheriting or receiving a legacy..."*

Nor does current legislation permit differentiating between children born in or out of wedlock where the right to inherit is concerned. Hence it may be inferred that in the Argentine Republic there are no legal impediments to anyone's ability to inherit, either in law or by virtue of a will.

Right to freedom of thought, conscience and religion

240. This right is enshrined in article 19 of the Constitution, which reads: *"For private actions that in no way offend against public order or morality or injure a third party, men are answerable only to God; such actions are exempt from the authority of judges. No inhabitant of the Nation shall be obliged to do what the law does not command or be deprived of what it does not prohibit."*

On the question of freedom of religion, article 20 refers particularly to foreigners and states that *"they enjoy in the territory of the Nation all the civil rights of citizens; they may ... freely practise their religion ..."*.

There are also other provisions supporting the freedom of religion that all inhabitants of the Republic enjoy, for example paragraph 66 of the Declaration of the World Conference against Racism, held in Durban in September 2001, which affirms that the *"religious identity of minorities, where they exist, must be protected and that persons belonging to such minorities should be treated equally and enjoy their human rights and fundamental freedoms without discrimination of any kind"*.

In the Secretariat for Worship within the Ministry of Foreign Affairs, International Trade and Worship a national register of religions is kept in which are recorded the religious bodies or organizations whose activities are permitted within the national jurisdiction.

As noted earlier, since the 1994 revision of the Constitution it is no longer necessary to be a member of the Roman Catholic Church to be President of the Republic as it was under the 1853/1860 Constitution. Moreover, the members of religious communities of a certain size in the country enjoy paid religious holidays. This is the case for members of the Jewish community who, under Act No. 24,571, are entitled to paid holidays to mark the main Jewish feasts – the Jewish New Year (Rosh Hashanah), the Day of Atonement (Yom Kippur) and Passover (Pesach) – and for members of the Muslim community, under Act No. 24,757 of 28 November 1996, which declares as non-working days for all inhabitants followers of Islam the Muslim New Year (the Hegira), the day marking the end of the Ramadan fast (Id al-Fitr) and the Feast of Immolation (Id al-Adha).

In April 2001, the Special Rapporteur on Religious Intolerance, Mr. Abdelfattah Amor, visited the Republic of Argentina. In several paragraphs of the report he wrote after his visit and submitted to the Commission on Human Rights at its 58th session, the Rapporteur acknowledges and praises the measures adopted by Argentina to promote and protect human rights and, in general terms, gives a positive assessment of the freedom of religion or belief that exists in our country, both in law and in practice. He says, inter alia, that *"federal and provincial constitutional provisions guarantee freedom of religion and belief and freedom to manifest religion or belief in accordance with relevant international law"*.

Concerning the constitutional provisions on State support for the Catholic Church, the Special Rapporteur says that *"this special link between the State and a specific religion is not intrinsically at variance with human rights" ... "Argentina is a pacemaker in human rights" ... "the State's policy generally embodies respect for freedom of religion or belief ..."*. He also notes that *"All the religious communities consulted by the Special Rapporteur ... agreed that the situation was satisfactory regarding freedom of religion and freedom to manifest religion, which can be fully exercised in Argentina, free of any State interference"*. *"Minorities which are not*

originally from Argentina ... stated that their identity, their specificities and their religious traditions could not only be preserved, but could flourish in Argentina."

In paragraph 54 of the same report the authorities of the Republic are quoted as saying that "*Argentina continues to be an example of religious co-existence*" and in paragraph 136, the Rapporteur says that "*the declaration of non-aggression signed by representatives of the Christian- and Muslim-Arab community and the Jewish community under the auspices of INADI ... can undoubtedly serve as an example at the international level in conflict management and prevention*". Finally, he adds that "*Over-all, the Special Rapporteur considers that Argentine legislation furnishes solid constitutional foundations and important legal guidelines to guarantee freedom of religion and belief*" (paragraph 128).

Right to freedom of opinion and expression

241. The right to freedom of opinion and expression is to be found in article 14 of the Constitution: "*All inhabitants of the Nation enjoy the following rights, in accordance with the laws that govern their exercise, namely ... to publish their ideas in the press without prior censorship ...*".

242. Since its return to a democratic system of government on 10 December 1983, Argentina has begun a long process of restoring the institutions and fundamental rights of its citizens. After decades when the rule of law was suspended, during which individual freedoms were systematically violated, Argentina has advanced confidently in the consolidation of human rights, among them freedom of expression, a essential pillar of any democratic regime.

243. Once the rule of law was re-established, the country reviewed the laws and the history of its tragic past. It was no simple task: the obstacles to turning the page on an age of missed opportunities were huge, but the work of democratic forces succeeded in imposing reason, the reason that gives us law and justice. As the democratic system – now in force in Argentina – grew stronger, it was possible to restore freedom of expression to full effect. So at last there was an end to the period of persecution for one's ideas, for one's thoughts and their expression in public and now the debate on freedom of expression can hardly begin without praise for the recovery of that right.

244. In June and July of 2001, the Special Rapporteur of the United Nations Human Rights Commission on freedom of opinion and expression, Mr. Abid Hussain, visited the Argentine Republic. His report on that visit was submitted to the Commission at its 58th session.

245. On the one hand, it contains criticisms, which are sometimes beside the specific subject of freedom of opinion and expression. On the other, it emphasises the high degree to which human rights are observed in our country. In particular, it recognises that the rights of opinion and expression are widely respected and exercised in Argentina. Mr. Hussain also stresses Argentina's commitment to human rights in both the inter-American and the international context. After a survey of history that serves as background for the report, the document gives figures and details about the press, describes the present situation in radio and television and highlights the national policy of giving broad freedom to opinion and expression, even mentioning, by way of example, the positive case of the absolute freedom accorded the series by the humourist NIK.

246. He also mentions the adoption by the National Congress of Act No. 25,326 on "habeas data", which protects the rights of those whose personal data are held in data banks and defines what is a crime in this regard, so that, where appropriate, the person concerned can institute criminal proceedings against anyone infringing his rights.

247. Further, in relation to the specific area of the media, the State has guaranteed and continues to guarantee the broadest and fullest exercise of freedom of expression. Here one should mention that, in view of the proliferation of FM radio stations, which have sprung up to meet the information needs of the different communities, the State, in an effort to bring into the legal system those stations that set up transmitters and broadcast on the fringes of the law, has granted them temporary licences to allow them to continue to function.

248. With the aim of definitively regulating the question of FM radio stations, a Standardized Regime for FM Radio Stations has been put in place to allot the greatest possible number of licences according to the available frequencies in each region of the country. This means that any individual or legal entity needing a means of communication for the free expression of their ideas can, if they comply with the relevant technical, administrative and regulatory terms and conditions, obtain a licence.

249. Nevertheless, there is still some serious and forceful work of education and conscience-raising to be done among provincial civil servants in several provinces where international human rights law has not yet been fully assimilated and the jurisprudence does not take the right of free expression and opinion sufficiently into account.

Right to freedom of assembly

250. The right to freedom of peaceful assembly is amply guaranteed in Argentina. This can be seen from current legislation governing the formation of trade unions and political parties and the right to strike.

ARTICLE 5 (E)

XXVI. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

251. One general measure adopted by the Argentine Republic to deal with the present crisis that deserves mention by way of introduction is the implementation of the Heads of Household Plan. Its purpose is to give economic assistance to the beneficiaries in order to guarantee the right of families to be part of society and therefore ensure that their children attend school and they receive health care. It also aims to encourage the participation of unemployed heads of household in formal education or training courses that may assist their future return to the labour force, preferably to work in productive projects or community services that have a measurable effect on employment.

252. The subsidies (\$150 per head of household) can serve as part of the agreed salary paid by those employers who take part in the Programme. It is planned that 5 per cent of the taxes on exports of food and agricultural products and petrol derivatives, estimated at \$3,000,000,000 annually, will fund the Programme. This is the most significant transfer of income to the most vulnerable sectors of society in the last 50 years of Argentina's history. The Programme is

monitored and managed by a Board made up of three members of government and 12 representatives of civil society.

253. The execution of the Programme began early in 2002 with an approximate total of 100,000 beneficiaries; by the month of September 2,007,570 beneficiaries had been registered. At that time the Programme was reaching 5.5 per cent of the total population and 19.5 per cent of households in the Republic. It has to be admitted that there were many problems with the Programme's implementation, both with the way the assistance was planned and the way it was carried out. For example, those persons who had no national identity document could not receive help, even if they were persons who had begun the procedure for migrant status; Argentines who could not afford the cost of obtaining a new document or foreigners were likewise excluded. The absence of any benefit distribution monitoring and the lack of means of appeal against unjustified rejections also undermined the assistance provided.

254. Here follows information on the exercise of economic, social and cultural rights by the different vulnerable groups.

XXVII. RIGHT TO WORK

255. In relation to the unemployment rate registered in Argentina, the provision of monthly benefits by the Employment Programmes was constant over the last three years (1999-2001) at a level of 100,000 beneficiaries per month.

256. From 2002 on, with the execution of the above-mentioned Heads of Household Plan, the evolution of monthly benefit payments has been significantly upwards, reaching its peak so far in the month of September with 2,007,570 beneficiaries under the Heads of Household Plan and 35,669 under the other employment programmes.

Situation of women in the labour market

257. In recent decades profound structural changes have taken place as a result of the internationalization of social and economic relations. A great expansion of the female labour force can be observed, there has been a considerable increase in the numbers of women entering the labour market in recent decades and their presence is growing more permanent, whether by personal choice or through economic pressure. This increase is confirmed by the activity rate for women recorded in 2001: in 1990 the rate was 27.4 (an average of the two annual phases of the Permanent Household Survey), whereas in 2001 it had reached 33.2.

258. On the question of women's integration into the labour market one should point out that:

- a) There is more employment. Women's employment rate has increased, as has their share of the total work force. The employment rate for women went from 25.3 per cent in 1990 to 27.6 per cent in 2001;
- b) Women are assuming key roles in the process of economic and social development and in the maintenance of their own households;
- c) Women have higher levels of education and training than men;

- d) The rate of school attendance is higher for women than men. In the main urban areas, for the age group 15-17 years it is 78.6 for males and 84.6 for females and for the age group 18-24 years it is 41.5 and 48.6 respectively.

259. However, although women's increased participation in the labour market has been accompanied by an increase in their level of education, their entry into the labour market has not been taking place on equal terms with men, for women encounter a number of disadvantages when they try to enter the market which make it difficult for them to find and keep jobs.

260. As a result of cultural patterns that assign certain roles to men and to women in society, women who work or wish to work are faced with the twofold responsibility of home and job which causes conflicts in their personal and professional development.

261. This means that they have to try to reconcile their domestic responsibilities with their jobs, which has a negative impact on their availability for work or vocational training. Furthermore, on the demand side, employers exhibit a range of prejudices against working women which obstruct their access to jobs. This attitude derives from the supposed impact on labour costs of the biological function of maternity and of family responsibilities.

262. Women's situation of disadvantage *vis-à-vis* men is demonstrated by an analysis of some features of the female labour market. One is extreme horizontal segmentation, which concentrates women in a small range of jobs defined in cultural terms as being "women's work". Women work as teachers, nurses, secretaries, typists, office clerks, shop assistants, hairdressers and the like.

263. Women are over-represented in service-sector jobs requiring few qualifications, and here domestic service predominates, accounting for 18 per cent of total female employment.

264. At the same time the labour market suffers from high vertical segmentation, with women concentrated low on the ladder in each type of work, which means that their jobs are worse paid and less stable. This is particularly true of the private sector.

265. There is a wage gap between men and women. The income received by women during their working lives is lower than that of men, on average about 30 per cent less. This is due to the concentration of women in the low and middle-income job groups, while men are found mainly in the middle and high groups.

266. Over the decade women have had higher rates of unemployment than men. The data for May 2001 show a less striking difference than in earlier years (in 1995 it was nearly 5 points).

The following figures confirm what has been stated above:

Rates of employment, unemployment and economic activity by sex

Urban totals. May 2001

	<i>Total population</i>	<i>Economically active population</i>	<i>Rates of activity</i>	<i>Employed</i>	<i>Rates of employment</i>	<i>Unemployed</i>	<i>Rates of unemploy- ment</i>
Total	22.257.745	9.510.929	42,7	7.931.368	35,6	1.579.561	16,6
Men	10.649.990	5.653.226	53,1	4.725.155	44,4	928.071	16,4
Women	11.607.755	3.857.703	33,2	3.206.213	27,6	651.490	16,9

Urban areas not available for selection: Mendoza.

Source: Permanent Household Survey, National Institute of Statistics and Censuses (INDEC).

Note: Values with a variation coefficient greater than 10 per cent.

Prepared by: Social Programme Information, Monitoring and Assessment System (SIEMPRO), Ministry of Social Development and the Environment.

267. Confirming a structural tendency, the latest available data show very few women employers and bosses: while 4.3 per cent of men are represented in this category, only 2.3 per cent of women are. In contrast, in the category "unsalaried worker" there are nearly three times as many women as men. In this case also, the data for the country's main urban area show a trend similar to that of the totality of urban areas.

268. On the basis of the foregoing it may be concluded that the problems facing women in the labour market are less and less related to formal education; they are a result of the sexual segmentation of employment, a lack of vocational training geared to the new models of production and the persistence of cultural attitudes that continue to see women's work merely as an adjunct to men's.

Implementation of equal opportunity and treatment policies for men and women

269. These policies are carried out by the National Women's Council (CNM), which since its inception has had as one of its priority focuses reversing the particular way in which women are integrated into the labour force. The following objectives have been proposed:

- a) Designing employment and work training programmes and projects to be implemented in the different government departments and areas of the country, with the aim of incorporating equality of opportunity and treatment for men and women into the world of production and labour;
- b) Improving women's aptitude for employment by promoting vocational training;
- c) Furthering the integration of women into the labour force;
- d) Sensitizing the whole of society and those sectors of it concerned with labour relations to the question of gender equity;
- e) Highlighting the situation of women and the economic contribution they make to the world of work and production;

- f) Promoting appropriate legislation and ensuring compliance with that already in force.

Concrete actions

- In the year 2000, the Ministry of Labour, Employment and Training of Human Resources developed the ***Emergency Jobs Programme (PEL), Community Development***. The CNM took an active part in this programme and carried out some on-going tasks in connection with: the dissemination of the programme among those of both sexes submitting projects; co-ordination with employment and occupational training managers of both sexes throughout the country and with the Provincial and Municipal Women's Offices and NGOs, so as to involve them in the programme's provincial units; technical assistance for public entities and NGOs in formulating projects; and the design of a training programme "to develop personal, commercial and/or social aptitudes" aimed at NGOs and government bodies submitting projects, so as to incorporate a gender perspective in the training offered to beneficiaries.
- ***Emergency Jobs Programme (PEL), Productive Employment***. This was a programme to encourage productive employment, whose aim was to offer temporary jobs and occupational training for unemployed workers of both sexes through the execution of projects to create productive employment directly and/or to support its creation, in urban or rural areas.
- Continuing with the planned course of action, in 2000 a national report was prepared on the subject of "Women and Work" for the Institutional Strengthening Component of the Federal Programme for Women (project BID OC-AR/1133). A system of gender gap indicators was also elaborated to monitor the situation of women in Argentina, among which were indicators relating to women and the labour market.
- A study was begun entitled "Gender equity and quality in employment. Argentina's health sector workers" with technical and financial assistance from ECLAC/GTZ.
- The Council took part in the Tripartite Argentine Commission on Equality of Opportunities and Treatment between Men and Women in the Workplace. This Commission is the product of an initiative on the part of the Ministry of Labour, Employment and Human Resources Training and CNM which invites employers and workers of both sexes to take part in a social dialogue. It was first set up in 1998 and relaunched in 2000. It is a forum for interaction and intersectoral collaboration to facilitate and promote concrete action to bring about greater equality of opportunity and treatment between men and women in the workplace.

270. The trade-union, business and government sectors are represented on the Commission. The three trade-union federations participate from the trade-union sector; from the business sector there are the Industrial Union of Argentina, the Argentine Chamber of Commerce, the General Economic Confederation, the General Confederation of Industry, the General Confederation of Production, the General Confederation of Commerce and Services, the Co-ordination Office for Commercial Business Activities and the Federation of Chambers of Commerce for SMEs; and from the government sector, the Ministry of Labour, Employment and Human Resources Training, the Ministry of Foreign Affairs, International Trade and Worship and CNM.

271. *The Framework Convention concluded between CNM and the Ministry of Labour, Employment and Social Security, with its Additional Protocol on the Heads of Household* Programme was signed on 8 March 2002. Some of its aims are to create a specific forum for the two parties for the preparation of a programme to be executed in the course of this year; to ensure the inclusion without exception of CNM, as a full-fledged member, and the Provincial and Municipal Women's Offices in the Provincial Advisory Councils, as well as the Council of the Executive Office of the Government of the City of Buenos Aires and any councils that may be set up at the municipal level; and to support the idea of promoting training as a means to facilitate the promotion and integration into the labour force of women in the community.

272. The CNM has prepared training material for women heads of household for the "***development of personal and social aptitudes for integration into the labour force***", aimed at offering useful tools to help poor women in our country to enter the labour force, in a horizontally and vertically segmented market.

273. This constitutes a useful process of teaching and apprenticeship, because it offers the women winning instances of their own survival strategies. The training process aims first to provide the tools for reflection and sensitization and next to allow them to build up new knowledge and acquire competence that will lead to a change of attitudes and the reformulation of their objectives and projects and the kinds of work they will do. It includes subjects related to the personal and social development of women (self-esteem), encouragement to seek employment in non-traditional activities and the empowerment of the women in groups and organizations. The substance of the training constitutes a valuable instrument for the understanding of the relationship between gender and work.

Employment situation of the disabled

274. The Employment Act No. 24,013, in title III, chapter III on programmes of employment for special groups of workers, states that "the programmes must take account of the type of work the persons can do ... They should, inter alia, consider supporting protected production workshops, assisting the employment of the disabled by giving them work at home and granting or lending stock to establish small businesses ..." (art. 86). Furthermore, in the interpretation and the drafting of legislation account is taken of the provisions of documents produced by international organizations, such as the United Nations Department of Public Information Standard Rules on the Equalization of Opportunities for Persons with Disabilities.

275. In April 1998, the *Unit for Persons with Disabilities and Vulnerable Groups* was set up in the Ministry of Labour. Its purpose was to facilitate the integration into the work force of persons with disabilities by developing and executing special programmes geared to improving their work opportunities and eliminating the social influences that hinder their integration.

276. Among other things it has been established that the employment contract that a firm signs with a disabled person is no different from that signed with a person without disabilities. The rights and obligations of the parties are those that are current in all labour relations: they concern hours worked and attendance, compliance with standard work practice and adjustment to guidelines regarding safety and hygiene. Of course, the firm must fulfil its legal and contractual commitments and those particular obligations that have been agreed on regarding disabled persons. Insurance contracts for accidents in the workplace may not discriminate either where the premium or the terms are concerned because the worker to be insured is described as disabled. Benefit societies are also under obligation to offer their services.

Ministry of Labour, Employment and Social Security support programmes for disabled persons

Support Programme for the Occupational Integration of Disabled Persons

277. The Support Programme for the Occupational Integration of Disabled Persons UNDP ARG/98/033 facilitates the integration of disabled persons into the labour market.

278. The Employment Secretariat of the Ministry of Labour, Employment and Social Security, the Co-ordinating Committee for Disabled Persons Programmes and the Office of the President of the Nation are the organs taking part in UNDP project ARG/98/033. It is financed from funds administered by the Co-ordinating Committee for Disabled Persons Programmes.

279. The Programme is broken up into four components, whose specific objectives are related to the creation and reinforcement of protected workshops. The aim is to promote the integration of persons with disabilities into both the protected and the unprotected labour market, by means of subsidies for the development of existing Protected Production Workshops and the creation of new ones, so that they may better fulfil their economic and social purpose.

280. The beneficiaries of the Programme are:

- a) Persons of both sexes of working age who have a functional disorder, whether physical or mental, permanent or prolonged;
- b) Persons whose age or social status represent considerable disadvantages for their integration into family, society, education or work;
- c) Persons whose disability is certified by the relevant authority under the terms of Act No. 22,431, Decree No. 498/83 and/or similar provincial legislation and who have the ability to work in protected production workshops.

Work training and mediation programme for disabled persons

281. The aim of the programme is to carry out training for work among disabled persons that will enable them to achieve equality of opportunity and overcome the handicaps that affect those with whom the programme is concerned.

282. There are two stages in the training provided under this programme:

Stage I: Regional training workshops for labour mediators.

Stage II: Training courses for persons with disabilities given by the labour mediators.

Other Ministry of Labour programmes in preparation

Programme of Adaptation to the Workplace

283. The aim of the programme is to give technical and technological assistance to enable disabled persons to adapt to their place of work, so that they can achieve equality of opportunity and overcome the handicaps that affect those with whom the programme is concerned. The institutions, foundations, governmental and non-governmental organizations, trade unions,

associations and private firms that benefit directly from recruiting disabled persons who have joined the competitive labour market will also be indirect beneficiaries of the programme.

284. The programme offers disabled persons in a position to enter the competitive labour market the technical and technological assistance to enable them physically to manage on their own by providing various products that permit better functional adaptation to the workplace. In designing the programme, three areas have been incorporated that make different contributions to the world of work, especially in this case in the field of disability: rehabilitation technology (RT), research and development (R and D) and ergonomics.

Programme of Integration Follow-up

285. The general objective of the programme is to facilitate the integration of disabled persons into the world of work by means of such actions as the evaluation, orientation, placement and follow-up of the disabled person in the workplace, so as to foster equality of opportunity and overcome the handicaps that make real social integration so difficult for the people with whom the programme is concerned. It should be said that CONADIS plays a tutelary role whenever a disabled person's right to work is violated, whether because the quota fixed by current legislation is not met or because the person is discriminated against for being "different".

286. In regard to work and disability, CONADIS has made its contribution to the ILO Programme of Theoretical and Practical Knowledge and has pointed out that the Work Contract Act, an essential instrument for worker-employer relations, refers only to discriminatory dismissal for reasons of sex, race or religion, disregarding the existence of discriminatory dismissal for reasons of disability, and suggests it be amended.

Employment situation of migrants

287. Any foreigner who performs tasks as an employee has the right to make to his employer any complaints that may arise out of non-compliance by the person providing the work with his obligations under Argentine labour law. In this way the principle of equality before the law contained in article 16 of our Constitution is safeguarded.

288. As already stated, with the fundamental aim of guaranteeing legal conditions of migration and employment, Argentina has signed migration agreements with the Republics of Bolivia and Peru that entered into force on 23 and 24 June 1999 respectively. Those international instruments establish a procedure for regularizing the situation of migrant workers of Bolivian and Peruvian nationality living in Argentina. On 6 November 2000, an Additional Protocol to the Migration Convention with Bolivia was signed with the aim of further simplifying the procedure and reducing its costs. It is hoped that a similar protocol can soon be signed with the Republic of Peru and a migration agreement in the same spirit with the Republic of Paraguay. It should be mentioned that Bolivian and Peruvian workers are part of the largest migrant influxes into Argentina, together with Chilean and Paraguayan migrants.

289. The agreements just referred to include specific clauses on the protection and promotion of the rights of migrant workers and their families, in accordance with the provisions of the international human rights instruments adopted by the United Nations and the OAS.

290. In particular, the agreements establish the right of those immigrants who have obtained their residence on the terms provided in the legislation of the host country to work and to engage

in any lawful industry; their right to petition the authorities and to enter, stay in and leave the territory of their country of origin and of the host country; their right to join associations for useful purposes and freely to practise their religion. They also provide for the full exercise of labour rights and equality of treatment with national workers: it is expressly stated that migrant workers shall enjoy in the host country treatment no less favourable than that given the nationals of that country, where the application of labour laws is concerned, particularly in regard to remuneration, working conditions and social security.

290. The agreements explicitly recognise the right of migrant workers freely to transfer to their country of origin their income and personal savings, in particular the funds needed to support their families.

291. The agreements also guarantee the fundamental right of access to education for the children of migrant workers on a footing of equality with the nationals of the host country. They also stipulate that access to pre-school establishments or to public schools cannot be denied or limited because the parents' migrant situation is irregular.

292. The National Directorate for Migration has not considered the real situation of migrant workers in Argentina. Citizens of Bolivia and Peru have been ordered expelled even when the agreements were in force; family and health reasons have not been taken into account for the urgent resolution of cases; and high taxes have been demanded for the right of settlement under a migration agreement in Argentina, as the Ombudsman of the City of Buenos Aires has pointed out in the document "State agency policies and practice in regulating migration" of May 2003.

Employment situation of children

294. The National Commission for the Eradication of Child Labour (CONAETI) was established by Decree No. 719 on 25 August 2000. This is an interministerial and intersectoral commission presided over by the Ministry of Labour, Employment and Social Security. Its activity is basically aimed at ensuring, at all levels and in all fields of intervention, the prevention and the eradication of child labour. For that reason, the governmental, trade-union, business and non-governmental organizations that make up the Commission have been invited to set up a sub-commission to draft a national plan on the matter.

295. The framework in which these activities are being pursued is that of the obligations of the State under article 32 of the Convention on the Rights of the Child and ILO legal instruments such as Convention No. 138 (ratified by Act No. 24,650), which states that: "Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour".

Report on work-related discrimination. INADI complaints centre

296. In August 2000 and August 2001, 394 complaints were addressed to INADI. The cases are classified according to the cause of the discrimination. Thus complaints are grouped under six headings, according to whether the act of discrimination was due to a prejudice regarding the nationality, gender, ill-health or age of the person, her pregnancy or the fact that he or she held or expressed a certain political opinion, or whether the act for some reason was motivated by a policy espoused by the firm.

297. Of all the complaints recorded, 37.05 per cent (146 cases) concerned discrimination that had occurred in the workplace with varying degrees of violence: there might be verbal or physical aggression, or a change of work or a reduction of salary might be involved and, in more serious cases, the suspension or dismissal of the person from their job, merely because they belonged to a given nationality or sex, were of a certain age or suffered some illness or were pregnant, or for some other reason that may be called political or ideological.

298. Of the 146 work-related cases, the greater percentage (41.09 per cent) were connected in some way to policy decisions. The largest number of cases resulted from the decision of the firm to suspend someone, change his duties or dismiss him on arbitrary grounds. Then come the cases in which the person is directly dismissed because he holds, expresses or allegedly supports a political idea that in the view of the employer runs counter to those of the management. Such cases are found mainly in the State sector and particularly when there is a change of government. Finally, there are also situations of the dismissal of employees who have been involved in some trade-union activity.

299. The second largest number of complaints (17.2 per cent) concern cases of discrimination in connection with a person's ill-health. Most of these occur when the employer becomes aware that the person is sick. This may happen either when that person has already started work, leading in many cases to dismissal; or it may be the result of a pre-recruitment examination that reveals the presence of an auto-immune disease. It is interesting to note that more than half the instances are of HIV infected persons being victims of discrimination.

300. The third largest percentage (11.64 per cent of total work-related cases) concern incidents, verbal aggression for example, arising out of the victim's nationality.

301. Finally in this category there are those situations that have a more indirect effect on the person's work, where their high-school certificates or university degrees are not admitted to the record as valid, because they are foreigners.

302. The fourth type of case, representing 10.95 per cent, refers to gender-related discrimination at work. The ways in which such discrimination manifests itself are more varied, but mainly involve moral or work-related harassment by a colleague.

303. The kind of cases concerned with the age of the victim of discrimination represent 9.58 per cent. Among these, nine led to complaints against the Teaching Statutes which impose an age limit of 40 years for embarking on a career as a teacher.

304. The same percentage of cases concern women who are pregnant. It is important to recall that these reflect only the situations about which complaints have been addressed to INADI.

305. With regard to information about criminal offences committed for racial motives, their investigation and punishment, the reader is referred to the section on article 4.

XXVIII. RIGHT TO FORM AND JOIN TRADE UNIONS

306. The Constitution of Argentina stipulates in article 14 bis that "*Work in its various forms shall enjoy the protection of the law, which shall guarantee the worker ... free and democratic trade-union organization subject to no other formality than registration in a special register*".

307. The Argentine legal system reaffirms this constitutional principle and the relevant international provisions and regulates the establishment, operation and activities of workers' trade unions in Act No. 23,551, promulgated by the Executive on 14 April 1988.

308. The first section of the Act relates specifically to the protection of trade-union freedom, embodying the constitutional principle of "free and democratic trade-union organization subject to no other formality than registration in a special register" (art. 14 bis). The Act incorporates the content of the relevant international agreements that have been ratified, notably ILO Conventions Nos. 87, 98, 151 and 154.

309. Article 4 of the Act sets forth the right "freely and without the need for prior authorization to form trade-union associations". Workers have the right to establish or found trade unions "of their own choosing" (ILO Convention No. 87, art. 2). This implies a twofold protection both in respect of the State – there is no need for prior permission to exercise this freedom to found unions – and in respect of employers, who are required to refrain from any interference intended to promote, impede or hinder the free formation of trade-union bodies.

310. Because of the special nature of trade unions, the freedom to establish them is subject to regulation by the law, provided it does not impair this guarantee (ILO Convention No. 87, art. 8). The right of workers to form trade unions is comprehensive. Article 21 of the Act regulates the provisions of the Constitution in a reasonable manner, setting forth only formal requirements to be met by the application for registration.

311. As to the right of trade-union membership, article 4 (b) of Act No. 23,551 recognises the right of workers to join, not to join or to leave existing associations. This domestic law provision gives effect to the latter part of article 2 of ILO Convention No. 87, which states that "*workers ... shall have the right ... to join organizations*". It reflects the individual right of workers to withdraw from the trade union with or without giving a reason. The right to join is regulated in detail by article 2 of Decree No. 467/88, which lays down restrictive conditions for refusing someone membership on the following grounds: a) Failure to satisfy the formal requirements contained in the statutes; b) Not being employed in the activity, occupation, trade, category or firm represented by the trade union; c) Expulsion from a trade union less than one year previously; d) Having been indicted or convicted for an offence against a trade union. The regulation stipulates that failure on the part of the trade union to respond within 30 days entails its acceptance of the application for membership.

312. The regulation provides that a decision to refuse membership must be taken through the association's internal procedure and the governing body is required to set the facts before the decision-making organ, with provision for appeal to the labour courts.

313. The right to found trade unions is not now restricted to a particular category of workers, such as government or private employees, as was the case under all previous legislation. No distinction is made, either, between office and industrial workers or manual and intellectual workers, which means that in a single trade union executives (the hierarchy), shop-floor workers,

professionals, blue-collar and white-collar workers may be found together. The right freely and autonomously to found trade unions is interpreted broadly.

314. The law uses the modern term "worker", which covers manual and intellectual workers in the private and in the State sector. The use of the concept of "public employee" as distinct from "worker" has always been without practical implications for the trade unionism of State workers, as the formation of trade unions for State workers took place alongside that of other associations and their right to form trade unions has never been called into question. There is no good reason why a trade union should not exercise collective rights, such as collective bargaining, the right to strike and other means of conflict resolution.

315. The law in force in our country respects trade-union rights without setting any restrictions on workers. In the exercise of those rights they may form a trade union without the need for a minimum membership.

316. For further information on this subject, the Committee is referred to Argentina's second periodic report under articles 16 and 17 of the International Covenant on Civil and Political Rights.

XXIX. RIGHT TO HOUSING

317. Throughout 2001 and up to the present, programmes have continued to be executed to provide housing for the sectors that lack it, of course within the limits imposed since January 2002 by the current economic crisis. These programmes are similar in their content, beneficiaries and sources of funding to those described in the previous report. However, early in 2002, the Government decided to divide up its functions and concentrated in the Ministry for Social Development those intended for the provision of housing and/or basic infrastructure to the population with unmet basic needs, as well as those geared to housing emergencies. For that purpose the Under-Secretariat for Social Infrastructure and Housing Emergencies was set up in that Ministry.

318. The Under-Secretariat for Urban Development and Housing thus ceded those functions, retaining those linked to the National Housing Fund (FONAVI), as defined in Act No. 24,464 which created the Federal Housing System in 1992. Since that year, it has been the provinces that have administered FONAVI (they plan, limit, contract for, supervise and allot housing), while the Under-Secretariat for Urban Development and Housing allocates the funds and audits resource management. It is in addition a member of the National Housing Council.

319. In its role as auditor of FONAVI, the Under-Secretariat for Urban Development and Housing has reported having no record of any situation of racial discrimination. What is more, in FONAVI there is no discrimination by nationality either, since the only requirement in this regard is that those being allotted housing possess Argentine papers enabling verification of their legal resident status and capacity to undertake the obligations involved in receiving a loan from the province to allow them to acquire the housing. Nevertheless, it has to be admitted that, in general and with some exceptions, the state-subsidized housing projects are not good. Those that exist are expensive and of poor quality and at the same time it is often difficult to gain access to them. Moreover, in the City of Buenos Aires foreigners are not allowed access to state-subsidized housing, despite the fact that both the City Ombudsman and INADI have issued separate rulings to the effect that this restriction is discriminatory.

320. A very special case is that of the indigenous groups living in provinces such as Neuquén, Formosa, Chaco or Salta. These groups can in principle obtain housing through FONAVI on the same terms (requirements, level of income) as the rest of the population. However, in view of the fact that the problems of the indigenous population are different, in most of these provinces special operations have been put into effect. An example is the procedure for housing people with funds granted in exchange for productive work, or loans for building their own houses. Where the provision of housing is concerned, these operations are carried out with the resources of FONAVI in association with other national or provincial resources earmarked for production.

XXX. RIGHT TO PUBLIC HEALTH, MEDICAL CARE, SOCIAL SECURITY AND SOCIAL SERVICES

321. Towards the end of 2002 the Ministry of Health issued a report on action undertaken with regard to the population's access to medication, namely:

- Adoption of the Act promoting the use of generic medicines;
- Progress of the "Remedy" programme for distribution of medicines;
- International public tender of the "Remedy" programme, for an amount of US\$25,000,000, to be financed partly by the Inter-American Development Bank;
- Direct transfer of resources for hospitals. Ten million dollars have been transferred to all the provincial jurisdictions and to the Autonomous City of Buenos Aires. The funds are to be used for the purchase of medicines and other health equipment for hospital use and first aid.

Health-related action for the disabled

322. CONADIS, in its strategy for halting acts of discrimination, advises, recommends, urges and refers to the competent body all cases where the social services hinder or refuse compliance with the provisions of Act No. 24,901. Pursuant to that legal instrument, the Committee has placed special emphasis on the work of prevention, assistance, promotion and protection to ensure that disabled persons are offered comprehensive coverage of their needs. To that end efforts have been made, with the support of the provinces, to implement or assist action to achieve the proposed objectives.

Health-related situation of the elderly

323. In the Secretariat for Human Development and the Family certain measures have been taken to give effect to antidiscriminatory policy in favour of the elderly, namely: *Home care*: Here the aim is to keep elderly people in their accustomed environment, as part of the community, so as to avoid premature or unnecessary institutionalization. The latter can have an adverse impact on the habits of a lifetime, weakening their sense of belonging and of personal identity and reducing their autonomy. It is felt that through this programme resources are used that enable the elderly to remain in their own surroundings. *Accreditation standards*: The Secretariat has carried out a study on the best conditions for the operation of institutions for the elderly. Its purpose was to make recommendations for the drafting of rules to ensure, by monitoring, that geriatric establishments would be welcoming homes rather than places of

marginalization. For that reason, one of the goals of this proposal is to serve as a basis for the drafting of a national law. *Gerontological training*: The aim is to train the directors of national and provincial old people's homes, to pass on to them the management techniques that will promote the achievement of the accreditation standards mentioned above. *Health promotion workers*: Their aim is on the one hand to ensure a more active role for the elderly and on the other to help them to acquire the knowledge that will allow them autonomy and a good quality of life.

Health-related action for women

324. The National Plan for the Reduction of Maternal and Infant Mortality, which is of singular importance for the social situation of women and has had a powerful impact on the lives and health of women and their children, was launched by the President in July 2000. It was devised by the Ministry of Health, with the collaboration of CNM, the Ministry of Social Development and the Environment and the Ministry of Education and Culture.

325. The general aim is to reduce maternal deaths (from complications during pregnancy, delivery and the post-partum period) and deaths among infants under one year. The specific aims include the prevention of unwanted pregnancies through programmes on responsible parenthood, sex education and the prevention of sexual violence; improving the accessibility and quality of primary health care services; enhancing women's awareness of their rights and strengthening their demand capacity; ensuring access to basic educational skills for women of childbearing age; including in the social programmes a component of social support for mothers and pregnant women; encouraging breast-feeding; and supplying suitable foods and nutrients to pregnant women and children.

326. The Plan covers the whole country and was submitted to the Federal Health Council (COFESA) in mid-2000, where it was discussed and approved. Fourteen provinces are now preparing their own plans for the reduction of maternal and infant mortality and CNM is advising on that.

327. The Plan envisages two main lines of action to achieve these objectives: the transformation of the health services by having them concentrate on the promotion of health and the prevention of illness, without neglecting treatment and rehabilitation, but emphasising work on primary care and giving priority to the following:

- a) Improving the coverage and the quality of the primary services and the maternity and paediatric referral services in order to deliver people-friendly, risk-free, decent and respectful care that can satisfy people's needs, demands and expectations;
- b) Re-orienting the training of health personnel and emphasising ongoing in-service training;
- c) Strengthening health administration by supporting local programming, management, leadership, motivation, supervision and evaluation;
- d) Promoting epidemiological research and auditing maternal and infant mortality statistics;

- e) Promoting comprehensive health care for women, including action to encourage responsible parenthood.

Promotion and publicity

328. To promote and publicize its content the Plan uses four central strategies:

- a) Intersectoral co-ordination of programmes and actions:

The Plan proposes that the programmes and actions currently carried out by the various sectoral ministries (Health, Education, Social Development) and CNM be co-ordinated. Although the health sector has the primary responsibility for measures to reduce maternal and infant deaths, international experience shows that the activities of other sectors, communication and social mobilization, education and social development, promotion of rights and the like, are essential means of supplementing and consolidating the work of the health sector.

- b) Training of staff on programmes of intervention:

People's access to health services and their satisfaction with the care received will depend to a large extent on a re-orientation of the work and working methods of those who provide health and other social services. This will require fresh training geared to the perspective of rights, professional competence in problem-solving, improved quality of care, and monitoring and appraisal of the impact of the action taken.

- c) Promotion of the rights of individuals and society:

The likelihood of people developing habits of self-care and early response to warning signals and of asserting their health rights depends basically on their awareness of those rights and on the development of their individual and collective capacity to demand them. That will require action to be undertaken to promote health rights.

- d) Communication to enhance citizens' commitment and control:

Any strategy to reduce maternal and infant mortality must be based on solid and sustained commitment and control by the people, for that can change cultural stereotypes and social norms harmful to women's and children's health and contribute to making their good health a matter of dignity in our culture.

329. Under the National Plan, CNM has carried out the following:

Awareness and training sessions on the National Plan. During these sessions, held in a number of provinces, CNM presented the Plan's objectives and encouraged local government bodies and civil society to become involved.

Training workshops on reproductive health and gender. Five of these workshops have been held, with special emphasis on the quality of care, in the provinces involved in the first stage of CNM's Federal Programme for Women. They were organized by the provincial women's offices, with the participation of the maternal and child departments of the health ministries or secretariats of the provinces concerned. They were attended by the

provincial women's office teams, women's NGOs, civil society organizations working with and for women, health office staff, health teams from the public assistance network and personnel from the social development offices of each province.

330. With regard to action strategies and materials for the promotion of women's health rights, a campaign was launched on the rights of the users of health services based on graphic materials (posters and pamphlets) highlighting the rights of women as health-service users. The campaign was intended to draw attention to the right to information, to friendly treatment and to respect for a woman's privacy, her body and her decisions. It was run jointly by CNM and UNICEF.

331. Along the same lines, information materials have also been produced on genital and breast cancer and the menopause, addressed to women in general, with a view to increasing their understanding of these problems and making them aware of their rights in respect of the provision of related benefits by the health system. Lastly, again with the support of UNICEF, a guide to reproductive health has been published (Health guide No. 5 "Women's health"), addressed to women and to social services staff working with women, which gives basic information on topics in this area.

332. CNM has also produced graphic materials (pamphlets and booklets) containing information on the reproductive health situation and the Plan's objectives and strategies. Technical notes have been prepared for the staff of public health, social development and education agencies, women's NGOs and parliamentarians on the subjects of maternal mortality, reproductive health legislation and the sexual and reproductive rights of adolescents. The purpose of these materials is to provide a diagnosis of the country's situation in these respects, together with matter for informed debate and the promotion of women's rights under current domestic law.

Compulsory medical plan

333. The compulsory medical plan was revised once again in October 2000, to specify the benefits which must be paid by all the social security agencies covered by article 1 of Act No. 23,660. It established a new catalogue of benefits available under the plan, including details of all the benefits the social security agencies must pay to their members, since the latter are entitled to all the benefits listed.

334. Several programmes are covered by this list. The mother and infant plan provides 100 per cent cover for comprehensive care during pregnancy, childbirth and early infancy; 100 per cent cover for medicines required by the mother during pregnancy, childbirth and post partum and 40 per cent for unrelated medicines prescribed on an out-patient basis; and 100 per cent cover for medicines for the baby during the first year of life. Also included is advice on breast-feeding, child care and responsible parenthood. The programme on the prevention of cervical cancer covers 100 per cent of the cost of PAP smear tests for all women over 25 years at intervals determined by the test results, together with additional tests (colposcopy and biopsy) again depending on the results. The programme for the prevention of breast cancer provides for an annual mammogram from age 40.

Care of persons with HIV/AIDS

335. Argentina is seeking a correct response to the need to establish health policies to control the epidemic on the basis of data obtained from epidemiological surveillance, as demonstrated by the National AIDS Act No. 23,798 and its regulatory decree, in articles 10 and 11.

336. Data gathered to date show that there is a total of approximately 14,500 cases. The ratio of men to women is three to one; the average age for men is 32 years, while for women it is as low as 26. The proportion of minors (under 15 years) is about 7 per cent. Most cases of transmission are due to the shared use of needles and syringes among intravenous drug addicts (41 per cent) and to sexual intercourse (46.6 per cent). It should be borne in mind that the majority of cases (93 per cent) are still concentrated in the main urban areas.

337. As far as concerns the total number of cases recorded since the beginning of the epidemic, two factors should be taken into account: on the one hand, the information time-lag and, on the other, the existence of cases that have not yet been reported and that will not be reported in the future (under-reporting). It is over the last two and a half years (1996-1999) that 38.4 per cent of cases have been diagnosed and, if one adds the 1995 cases, five out of every ten AIDS cases have been diagnosed in the last three years.

338. There are cases of AIDS in every province of Argentina. However, the epidemic is concentrated in the major urban areas and its impact is uneven.

339. As for the distribution of cases by sex, the ratio has remained at under four men to each woman since 1992, with a slight tendency to decline. One must point out that the behaviour of this variable (men/women ratio), like that of others, changes according to the characteristics the epidemic assumes in each city. There are cities where the chief means of transmission are needles and syringes shared among intravenous drug users. In other places, unprotected sex between men is the principal risk factor. And in others again, heterosexual relations are the main cause.

340. When all cases are analysed by means of transmission, the most important means is seen to be sexual transmission, which causes about 50 per cent of cases. Unprotected homosexual and bisexual relations are responsible for about 26 per cent of cases, unprotected heterosexual relations for about 20 per cent. This last means, heterosexual relations, is the one that has shown the highest rate of growth in recent years. After developing slowly up to 1992, it is now growing so fast that it is overtaking intravenous drug use.

341. Cases of vertical transmission represent 7 per cent of the total and deserve special mention. Using early diagnosis and treatment among pregnant women and newborns, it is possible to produce a high impact on this sector of the affected population.

342. Another element that needs to be taken into account when analysing risk factors is their relationship to the age of the patient. Of those persons probably infected through intravenous drug use, 60 per cent were under 30 years of age at the time of diagnosis. Among persons stating that they were infected through unprotected heterosexual relations, those under 30 years represented 43 per cent. Among men whose presumed source of contagion was unprotected sex with other men, only 25 per cent were under 30 when the disease was diagnosed.

343. Level of education is the most sensitive indicator the National Programme has for estimating the socio-economic situation of the affected population. This varies with the means of transmission. Among intravenous drug users sharing equipment, only 18 per cent had completed secondary school; 15 per cent had not completed primary school. At the other end of the scale is the group of men who have sex with other men, among whom 4.4 per cent had not finished primary school, whereas 61 per cent had at least completed high school when diagnosed with AIDS.

344. The increasing poverty among the victims of the epidemic throughout the world is also being observed in our country. Noting the degree of education as one of the indicators of socio-economic level, one can observe an increasing tendency for AIDS cases to be associated with low levels of schooling.

345. From 1996 onwards the AIDS epidemic began to acquire a differentiated profile, thanks to the use of new (combined) treatments which, on the one hand, improve the quality of life of AIDS patients and, on the other, postpone the appearance of indicative ailments in those infected with HIV. This will certainly cause a reduction in the number of new AIDS cases, without necessarily meaning a halt to the HIV epidemic or, a crucial factor, a decline in deaths from AIDS.

Infection monitoring

346. The epidemiological analysis of diseases has among its main objectives:

- a) To detail existing scenarios to provide technical input for preventive policy-making;
- b) To provide the health services administration with the means to assess the resources needed for intervention.

347. As has been the case everywhere in the world, the analysis of AIDS cases, the ailments that mark the presence of AIDS and the population groups affected has more to do with the second of the above-mentioned objectives. On the other hand, when future strategies have to be outlined, AIDS cases data are insufficient and it becomes essential to study the epidemic in its earliest phase: that of HIV infection.

348. As the monitoring of infection is systematized, it becomes possible over time to establish trends in the epidemic or changes that may occur in the different population groups, and as a result adjust prevention policy where necessary. The debate on HIV/AIDS then is no longer limited to how many cases there are in each country or what the rates of occurrence are (number of new AIDS cases in relation to the control population), but increasingly includes the following question: what is the prevalence of infection in each country (number of persons infected at given moment/total control population) ?

349. In this regard one should recall that, since the HIV/AIDS epidemic is closely linked to to personal lifestyles, there exist substantial differences among the cases. This means that an analysis of the whole population as a homogenous group would not allow a real grasp of the problem. That is why, in order to study the prevalence of HIV infection over time, population groups have been delineated that show the greatest possible homogeneity where risk-linked behaviour for HIV transmission is concerned.

- *Drug addicts* (mainly intravenous), those who consult services for sexually transmitted diseases, detainees and sex workers. According to national and international writing on the subject, these are the groups most vulnerable to HIV.
- *Pregnant women*. They constitute a clearly representative segment of the sexually active population with a degree of vulnerability similar to that of the general population.

- *Armed forces recruits.* Although military service is not at present compulsory, which reduces the representativity of this group vis-à-vis the general population, the age of the group members (18 to 24 years) coincides with that of those most affected by this epidemic.

350. On the other hand, there are two population groups that are not highly representative in relation to the general population.

- *Blood donors.* If strategies for self-exclusion exist, this group should show a lower prevalence than does the general population.
- *Anonymous, voluntary detection-centre consultants.* Those who visit such centres frequently perceive themselves as being at risk, so the prevalence among them is usually greater than in the general population.

351. Similarly, data from general laboratories obtained at a doctor's request from persons with a suspicious diagnosis tend to show greater prevalence than is found in the general population. Even with the limitations indicated, these population groups have two fundamental features: information about them is accessible and the fact that a similar methodology has been maintained over time makes comparisons possible.

Epidemic monitoring

352. The system of epidemiological monitoring of HIV prevalence, using a uniform methodology in all jurisdictions, which began in 1998, allows us to establish a starting point for the prevalence of infections in each province and in the country as a whole. To date, 19 jurisdictions, the armed forces and the prison system have been taking part in this system of twice-yearly notification. Each has contributed data on the different groups selected, with different degrees of prevalence that vary according to the type of behaviour represented and the spread of the virus in that place.

353. For analysis by jurisdiction, it has to be noted that in some provinces the data are by city, in others by department and in others they are provincial totals. As for an analysis over time, it must be observed that for some population groups there are data from both halves of 1998, for others only from one. All data are useful in observing trends and their epidemiological value depends on the number of persons from whom blood samples can be obtained, the reliability of the information and the maintenance over time of a uniform collection method. To reduce the dispersal of data and to be able to make valid statistical comparisons, the main measurement used is the median, with the minimum and the maximum as auxiliary measurements.

XXXI. RIGHT TO EDUCATION AND VOCATIONAL TRAINING

354. The following are the measures implemented by the Ministry of Education, Science and Technology to give effect to antidiscriminatory policy where the right to education is concerned.

Rural schools

355. Since the beginning of the Social Education Plan, the country's rural schools – and one should point out that the northwest and northeast regions of Argentina contain about 70 per cent of all schools – have been the target of different types of action throughout the period 2000-2001.

356. *Provision of textbooks.* These are given to pupils in the first year of basic general education and lent to them from the second to the sixth year, as well as pencils, pens, rulers etc, exercise books and paper, in all the schools taking part in the Plan.

357. *Teaching of the third cycle of basic general education in isolated schools.* Since 1996, in order to comply effectively with the Federal Education Act, the education offered to isolated rural populations has been expanded through the implementation of Rural Project EGB3. Acting in co-ordination with 19 provinces the project reaches about 2,500 schools using different organizational arrangements. The curricular material needed to complete the cycle is provided at the national level: workbooks for the pupils, teachers' aids, specific book collections for daily work and financial contributions for replacing used teaching materials. It is up to the provincial counterpart to provide and pay the teachers and meet related overheads.

358. *Development of school clusters and projects.* Since 2000, clusters of rural schools have been formed with the aim of forming a network. The first clusters were formed with those schools that each province selected as being priority institutions. Each of the schools prepared its own "focused" project and the group of clustered schools defined instances of joint work, known as "cluster projects", that could be done to solve common problems. The national Government financed the implementation of the projects and gave technical assistance for their design and development.

359. *Development of the Early Start project.* Early in 2000, in the provinces of the northeast and northwest of Argentina, which in the previous year had had fewer schooldays than planned, the national Ministry of Education, together with the provincial education authorities, launched a project in rural schools for an early start to the reading cycle. The aim was to ensure that pupils entering the first year of basic general education or the first year of middle school were better prepared for learning. The teachers received reading materials and technical support for work on language and mathematics and the pupils were given textbooks.

Situation of the disabled in education

360. The Programme to Promote Integration into Mainstream Education, which comes under the Programme Co-ordinating Committee for Persons with Disabilities in the Ministry of Education, has provided the funding for various school establishment projects geared to achieving full integration for pupils with special education needs. In that way it has been possible for pupils who until then were unable to attend what are known as "mainstream" educational establishments, whether because of the presence of architectural barriers or the absence of teaching and information material adapted specifically to their use, to be fully integrated into the main stream in respect for their special needs.

361. The "Special Education Network" project opened up channels of communication among the various participating institutions allowing them to exchange resources among themselves and with their communities. Thus they have endeavoured to establish mechanisms for inter-institutional and intra-community links that in the end will lead to the integration of pupils from special schools into society.

362. What is more, through the "focused" projects and the "cluster" projects already mentioned in the rural areas, special schools have been able to take an effective part in the clusters in terms of the pupils' school careers. The aim has been to begin a process of inclusion of the so-called special schools in the general education system, so as to establish mechanisms for continuous co-operation between mainstream educational institutions and establishments for special education.

363. In its work during the period 2000-2001 in the area of special education, the Ministry of Education devoted part of its efforts to starting up a fully operational inclusive school to cater for pupils with special educational needs, in other words the needs of persons who require aids or resources that are not usually available in a school context to enable them to begin acquiring the knowledge contained in the curriculum.

364. This approach entails the recognition of human diversity, which can only be attained when human rights are given their true value. Such recognition is the first step to finding appropriate solutions for the education of those who because of their peculiar circumstances or backgrounds find it harder to benefit from schooling. All children have to learn, but it should be possible for them to do so in a setting adapted to their needs, so as to further the development of their potential.

365. The changes brought about by the A-19 Framework Agreement for Special Education and promoted at each of the regional and national meetings involved activities concerned with quality criteria and indicators carried out in the different regions. Some examples are:

- Implementation of follow-up and evaluation programmes by the managers themselves of school-integration and adapted-teaching projects;
- Devising the tools for assessing pupils and awarding credit, diplomas etc.;
- Shared teacher-training;
- Creation of centres to provide guidance, up-to-date information and research for the community and for the educational establishments that accept and cater for those with special educational needs;
- Recruiting well-balanced teachers who can enhance the inclusiveness of schools with mainstreamed children;
- Separate and specific institutional education projects in mainstream and special schools;
- Service network for early motivation;
- Hired apprenticeships in public offices.

366. All this is possible within the theoretical framework provided by the idea of an inclusive education. In that perspective, the Special Education Technical Team has geared its action to creating schools that can offer quality service.

367. Furthering inclusive schooling means making room for an educational establishment that can give quality education to all the children in a given population, an establishment which, thanks to the excellence of what it offers, enables all the children in the community to find there whatever they need for their fullest possible development. This requires not only the will to organize it, but also the awareness of a need that will translate into serious, interdisciplinary training. A community can so marshal its resources that it can respond to diversity with an interdisciplinary, interinstitutional and intersectoral approach. This way of perceiving respect for diversity is bound to encourage and facilitate interaction among people, since it is not only a matter of mere school reform, but of transcending the institutional to go on to work together and become protagonists in other social activities.

368. Information work has been done to promote the start-up of an inclusive school in academic forums (congresses, refresher courses, seminars) organized by various national entities (CONADIS, INADI, Department of Special Education of the Province of Buenos Aires, Social Science Faculty of the University of Buenos Aires, Ministry of Health, Secretariat for Distance Learning of the National University of La Plata) and international organizations (OAS, UNESCO, Pan American Health Organization).

369. A project approved by the OAS Inter-American Council for Integral Development in MERCOSUR (together with Brazil, Uruguay, Chile and Paraguay) and entitled "Education in diversity" is at present under way and work is being done in that connection with mainstream schools belonging to the Government of the City of Buenos Aires. The institutions have been selected with the criterion of cultural diversity in mind. Subjects involving discrimination generated by ethnic, social, cognitive, sensory and motor differences are being emphasised.

Anti-discrimination policy implementation measures in education

370. Actions have been planned to foster:

- The transformation of institutional management (to make it more flexible and interdisciplinary, capable of generating comprehensive, diversified and balanced institutional projects);
- The adaptation of the curriculum (to permit pupils with special educational needs to follow the general curriculum);
- The organization of resources to respond to diversity (from interdisciplinary, interinstitutional and intersectoral approaches);
- The early detection and treatment of impaired development;
- The creation and updating of sources of vocational training;
- The training that should accompany the installation of new special education models.

371. The Special Education Team undertook these actions as it worked in each of the provinces whether in regional meetings (in the northwest and northeast, in Cuyo, in the centre and in the south) attended by technical teams from the jurisdictions, supervisors and teachers from special and mainstream schools or in national forums (November 2000 and November 2001). Specialists also engaged to be present and on the basis of updated theory helped in the drafting of documents to assist reflection and debate.

372. The improvement of services meant that special education had to break out of the mould of an isolated subsystem of education. So work had to be done to encourage:

- a) Link-ups with school services, so that, where the children's disabilities allowed it, pupils with special educational needs could be integrated into mainstream schools. By this is meant actually making it possible for those children to follow the curriculum in a mainstream school by making the teaching flexible and grading it in such a way as to allow different children to work alongside mainstream children, while always respecting their manner of development and learning speeds;
- b) Achieving better academic results in special centres or schools in those situations where strategies for mainstreaming properly so-called are not felt sufficient or where the complexity of the educational needs so requires.

373. This has been achieved using technical assistance to generate proposals for training and meetings to foster reflection about practice accompanied by a review of that practice.

374. Mainstreaming pupils with special educational needs does not entail a generalized solution without programmes of co-ordination, where the child would just be physically placed in a mainstream school in the charge of an ordinary teacher who would have to assume full responsibility for that child's education. A process of interactive decision-making has to be undergone by the multidisciplinary team, with the special school, with the host school, with the family, the pupil, the class and the teachers (both special and mainstream). It is a whole method of work, in the classroom, in the school and with society, founded on the right to the most appropriate education and to equality of opportunity. In other words, the inclusive school must ensure that the integration of certain pupils with special education needs is a right and not a duty (by avoiding compulsory integration).

375. Further on the question of education, CONADIS has been working to make the inclusion of children with different needs effective by involving children and youngsters without disabilities as partners in the task. It has done this by encouraging behaviour that makes the inclusion easier. It has particularly borne in mind the fact that education is the very best way to prevent isolation and social fragmentation and that exclusion, in whatever form, sets its victim on the road to marginalization and discrimination.

Report on bilingual intercultural education

376. In 2000 and 2001, progress was made in different ways to deal with controversial aspects of the relationship of the educational system to the indigenous population. It was felt to be urgent to act both with regard to schools with a high percentage of indigenous pupils and to the school system as a whole.

377. In schools with a high proportion of the indigenous population, the most obviously problematic situations concern the children's difficulties in learning to read and write, and a lack of trained staff and of appropriate teaching materials. These factors, compounding the situation of poverty and marginalization, lead to very high numbers of children repeating the year or dropping out.

378. In 2001, an appeal was made for a systematic review of the experiences of schools throughout the country working with the indigenous population, with the aim of systematizing the work in intercultural and bilingual education, publicizing existing experience and turning it to advantage. The reports sent in show positive effects (in terms of pupils staying in school, their work and their involvement in what the schools propose) where teachers identify the problems and devise strategies to deal with them, questioning their own prejudices and endeavouring to appreciate the reality of different socio-cultural backgrounds. A study of these experiences will allow us to identify courses of action for further progress.

MERCOLINGUA data bank

379. The Working Group on Linguistic Policy (GTPL) of MERCOSUR's Education Sector has recommended the constitution of the first MERCOLINGUA data bank. Details of the project are as follows:

Objectives

- To obtain objective data for linguistic policy formulation (concerning the official languages of MERCOSUR, indigenous languages, and others) for the region and make them available to politicians, researchers and teachers;
- To create a network of specialists able to influence and assist the process of regional integration.

Activities

Retrieving data relating to the following:

- Human resources to work on the research proposed and to form a specialist network;
- Legislation and work on language by the Ministries and Secretariats of Education;
- Research and projects completed or under way on the sociology of language, in connection with the languages of MERCOSUR.

380. Argentina invited a team of specialists from the Linguistics Institute of the Faculty of Philosophy and Letters of the University of Buenos Aires, co-ordinated by Professor Roberto Bein, to carry out this task. In December 2001, the team submitted its final report on the first stage of the research project on the MERCOLINGUA data bank. It contains:

- a) A survey of existing research into the linguistic situation in the Argentine Republic;
- b) A survey of the politico-linguistic legislation adopted in the country (on education, on the media, on the protection of languages and on MERCOSUR);

- c) A study, as yet incomplete, on the demographic and linguistic situation and the politico-linguistic action taken in the Province of Corrientes.

381. Measures have been adopted to combat discriminatory prejudices and to foster understanding, tolerance and friendship among the various groups suffering discrimination, especially through teaching and education, culture and information.

382. With technical assistance and in some cases direct financing, support has been given to developing the experience of bilingualism, of learning Spanish as a second language, of training and integrating indigenous teachers and assistants and of training white teachers in the language and culture of the indigenous groups with which they work, as well as in publishing teaching materials adapted to each context. This work has mostly been done in the provinces of Jujuy, Formosa, Chaco, Misiones, Santa Fe and Neuquén.

383. In response to proposals for the education system as a whole, work has been done on revising the image of indigenous people as it has become fixed in the mind of society and in the education system.. The national Ministry has taken part in teacher training forums and in the preparation of social science textbooks with the aim of changing the way in which American and Argentine history is told. It is also following the development of innovative experiments.

384. A module on linguistic diversity was included in the Support Programme for Trainers, in which 180 teachers from all round the country took part. The following were part of the Programme:

- a) A lecture entitled "An overview of bilingual intercultural education in Latin America" by Dr. Luis Enrique Lopez, Main Advisor to PROEIB Andes (Bilingual Intercultural Education Training for the Andean Countries);
- b) A workshop co-ordinated by the team from the Priority Schools Programme entitled "Meeting the needs of the indigenous population";
- c) A bibliography on the subject (current situation of indigenous languages in Argentina, elements for a socio-linguistic diagnosis, descriptions of some indigenous languages of Argentina, assessment of the bilingual intercultural education process, recommendations for teaching Spanish as a second language in a context of diversity);
- d) A workshop on "The multigrade, multilingual classroom".

Report on migrant education

385. The characteristics of present-day migrant flows are different from those of the past. The goal of earlier migrants was to find in Argentina opportunities for work and welfare that were denied them in their countries of origin, with the more or less declared intention of settling for good. Although economic reasons remain basic to migration, when the decision is taken it is possible to distinguish different goals.

386. Settlement in the country has become notably less frequent where European immigrants are concerned. Here one should also recall the difference between the quality of life to be found in the central European countries up to the middle of the twentieth century and today.

387. We could divide immigrants into two major groups:

- a) The first group comes largely from neighbouring countries. They emigrate for economic reasons and generally do not take steps to settle legally, because they lack the economic resources to begin those high-cost procedures. That is why there are no reliable statistics on how many they are. They are to be found in large numbers in frontier regions and in the major cities, as unskilled, often self-employed, workers and hawkers.
- b) The second group may be subdivided into:
 - Refugees from countries with political problems or countries at war: the Balkans, Africa, the formerly communist countries etc. In most cases they are under the protection of UNHCR or are in contact with international aid organizations such as the International Confederation of Catholic Charities (Caritas) or the Argentine Catholic Commission for Migration;
 - Migrants in transit to the United States. This is the case of most Koreans and Chinese;
 - Temporary migrants, such as the Bolivians in the northwest and the Chileans in the south;
 - Others.

388. The second group, which represents 40 per cent of those registered with the National Directorate for Migration, usually have better living conditions and a higher level of education, but also experience considerable difficulties in becoming integrated, because of the language barrier and cultural differences.

389. One of the major problems for immigrants is learning the Spanish language. Information currently available indicates that courses are in scarce supply. The University of Buenos Aires offers paying courses. By an agreement with UNHCR and the Argentine Catholic Commission for Migration, refugees can take the first level without payment.

390. The government of the city of Buenos Aires offers some free courses, but there are not enough to satisfy demand in the city that has the largest number of foreign entrants and settlers needing language classes. In view of the scarce supply and the volume of demand, the Argentine Catholic Commission for Migration has recruited some teachers who give free classes at its headquarters.

391. In any case, the total supply is insufficient. Out of the approximately 12,000 non-Spanish-speaking foreigners who came to live here in 2000, about 2,000 were able to attend classes (source: Ministry of the Interior, National Directorate for Migration).

392. Finally on the subject of migrants' access to education, it is important to note that in the city of Buenos Aires, Act No. 203 of 1999 compels educational establishments to register pupils under 18 years of age temporarily, even when they have no identity papers. It also provides for counselling and assistance for foreign students and their legal representatives with the procedures for regularizing their situation.

General antidiscrimination policy in migrant education

393. In view of the State's severe political and budgetary limitations and the over-ambitious proposals that have failed or been abandoned in the past, the Ministry of Education must set realistic and well-defined policies capable of being sustained over time.

394. They should be concentrated on four essential aspects of migrants' situation:

- a) Socialization and acquisition of Spanish;
- b) Recognition of studies or evaluation of level of education for adults and continuation of the same;
- c) School enrolment of children of migrants;
- d) Agreements with neighbouring countries on providing continued basic general education and basic general education for adults to migrant families (there exists a project prepared by IOM for the Potosí-Jujuy region);
- e) Recognition of and support for cultures of origin.

Action undertaken

395. To date, the Co-ordination Unit for the Education of Young People and Adults in the Ministry of Education has contacted some of the institutions involved in the above-mentioned areas.

396. In the Ministry of the Interior, the National Directorate for Migration has obtained statistics on numbers of resident and non-resident foreigners. With UNHCR and the Argentine Catholic Commission for Migration they have analysed possible courses of action for promoting some initiatives, specifically the regulation of Resolution No. 2575/98. By that resolution, the Ministry of Education established preferential treatment in the administrative procedures for entering the country's educational establishments for those foreigners who have obtained refugee status under the protection of UNHCR. It also provided for tests to evaluate those who have no certificates indicating the level of instruction attained. The Ministry of Education, together with the co-ordinating body of the National Solidarity Programme, also plans to study, jointly with the heads of some national universities, the possibility of student volunteers giving free Spanish classes.

Action proposed

Regulation of Resolution No. 2575/98

397. Together with the other departments concerned – Validations, Legal Affairs etc. – draft regulations will be prepared for this Resolution, as well as for standardizing the tests to validate studies completed in the immigrants' countries of origin.

Continuation of studies or vocational training

398. Regular information will be provided in an ad hoc bulletin to those institutions permanently concerned (National Directorate for Migration, UNHCR, Argentine Catholic Commission, Caritas and others) and to those of the immigrants' nations regarding the availability of Spanish

classes, basic general education for adults, polymodal education, FP etc. and the requests and needs of adults will be examined.

Research on laws in force

399. Information will be gathered in the various jurisdictions about the laws that are in force regarding requests for enrolment of foreign students and accreditation of their studies, with the aim of streamlining them.

Report on education of young people and adults

400. During the period 2000-2001, four federal and four regional meetings were held to agree on measures for integrating young people and adults into the formal education system and improving the availability of education. The first Federal Meeting of the Unit for the Education of Young People and Adults (EDJA) was held in the province of Córdoba in August 2000. The participants were those responsible for planning and administering education in the provinces and the city of Buenos Aires (political representatives of government departments, managers of the provincial Special Education Regimes, members of technical teams, supervisors and directors of young peoples' and adults' schools of basic/primary education, middle-level and polymodal education, informal education and vocational training); representatives of organizations concerned with the education of young people and adults (trade unions, employers' associations, PMEs); and research-workers and specialists in the subject.

401. The considerations that formed the political and technical foundation for the meeting and the context in which it was held were explained, as were the educational policy directions that underpinned the proposals for the education of young people and adults. This Federal Meeting of EDJA constituted the beginning of a process of reorganizing and improving the education available to young people and adults.

402. The main goals of the meeting were to move ahead in agreeing policy directions to pursue in the field of EDJA; to create a framework for defining criteria for the formulation of general curricular guidelines and curricular structures for basic general education and polymodal education; to propose the basis for future action at the provincial, regional and federal levels; and to exchange information about the situation and functioning of adult education in the provinces and the city of Buenos Aires.

403. A document entitled "Guidelines for the organization of basic education for young people and adults" was submitted for discussion in the working committees to advance the debate and the definition of proposals for action. The provincial authorities assumed responsibility for carrying out a round of consultations in the EDJA community, so as to bring suggestions to the regional meetings. The latter were held in October and November of 2000.

404. The regional meetings were sponsored by the Ministry of Education and organized by the authorities of the provinces forming each region. The purpose was to prepare a regional report on regional agreements for the identification and treatment of common problems. The participants were provincial directors and co-ordinators of EDJA, technical experts, supervisors, EDJA teachers and a representative of the EDJA team from the Ministry. The regions were the northeast, the northwest, Cuyo and the south.

405. The working method and the sessions were different in each region. The representatives of the provinces taking part submitted a report to the regional meetings with inputs to the Tanti document, prepared together with teachers, directors and supervisors.

406. At the Federal Seminar or second Federal Meeting of EDJA, held in Buenos Aires in December 2000, each region presented the report prepared at its regional meeting. Participating in this Seminar were the provincial director or co-ordinator of EDJA, representatives of the technical teams from the provinces and the Ministry of Education, supervisors and representatives of the Argentine Union of Education Workers.

407. The meeting was opened by the Under-Secretary for Basic Education and the co-ordinators of the programmes Curriculum Management and Training, Teacher Training and Priority Schools. The work of the meeting then continued with the submission of the regional reports. The EDJA co-ordinator presented the working document "Guidelines for the organization of basic education for young people and adults" for work in regional committees.

408. The committees worked on the problems of learning in EDJA, the availability of EDJA, its unified management and heterogeneous public, all within the framework of the document. The committees' conclusions were presented in plenary at the conclusion of the meeting. On the basis of these contributions, the Ministry of Education pledged to prepare a new version of the document that would include the recommendations made.

409. Federal Meeting with the Buenos Aires political authorities, August 2001. The participants were the political authorities of the province, the provincial director or co-ordinator of EDJA and the co-ordinator and technical team of EDJA in the Ministry of Education.

410. The meeting was opened by the Under-Secretary for Basic Education and the Co-ordinator of Curriculum Management and Training, who explained the thrust of the Ministry's work. The Co-ordinator of the EDJA Unit presented the document "Basis for the reform of education for young people and adults", drafted using the contributions of the federal meetings of the year 2000.

411. At that meeting, it was proposed to study and discuss the document concentrating on the following areas for action: unified management, structure of the supply, criteria for accreditation and curricular guidelines for the transformation of EDJA. There was general agreement and the suggestions and contributions received were used in the preparation of the final rough draft.

412. There were also presentations on the work done for specific target populations: education in prisons, education for immigrants, treatment of 10-15 year olds, literacy programmes. These aroused interest among the participants, who saw reflected in them the problems they have today.

413. The Ministry of Education assumed responsibility for redrafting the document "Basis for the reform of education for young people and adults", incorporating the inputs from the different working committees, for later examination, discussion and agreement.

414. Second Federal Meeting with the Buenos Aires political authorities, November 2001. The participants were the political authorities of the province, the EDJA director or co-ordinator and the co-ordinator and technical team of EDJA in the Ministry. This meeting continued the work of the previous one and included a new line of action, namely training for teachers of young people and adults, through FORDECAP.

415. The meeting was opened by the Co-ordinator of the National Programme of Curricular Management and Training. Thereafter, the head of FORDECAP presented the provisions for the training of EDJA teachers, to be implemented in 2002. The co-ordinator of the EDJA Unit presented the final rough draft of "Basis for the reform of education for young people and adults".

416. The working committees studied and discussed the new version of the document agreeing to the various courses of action presented therein. On teacher-training, they pointed out the need for a representative of EDJA to work with the provincial central administrations. When committees to deal with particular problems were formed, two representatives from each region were elected to the committee on accreditation, certification and distance learning and to the committee on the immigrant population. The creation of these two committees was recorded in the document at the request of the provinces.

417. At the plenary meeting, each region explained and justified the changes made to the version as submitted. They were reflected in the document to be presented to the CFE. Likewise, the final rough draft of the document was read out, with all provincial representatives agreeing to it.

Vocational training for the elderly

418. The Secretariat for Human Development and the Family in the Ministry of Social Development has taken measures to encourage the integration of the elderly in the field of education. It has put forward projects for voluntary work and for micro-enterprises. Both proposals promote a changed and enhanced status for the elderly in society, in the first place allowing them to be seen as socially productive members of society and also integrating them in a special way into productive activity. By way of example, in the Province of Chubut a subproject called "Clothing" has been implemented involving the production of clothing by the elderly for the elderly.

XXXII. RIGHT TO EQUAL PARTICIPATION IN CULTURAL ACTIVITIES

419. One of the main directions taken the formulation of cultural policy in the Republic of Argentina has been towards equality of opportunity in access to culture. There has been a permanent quest for responses to cultural demands and an effort to be open to instances of creative endeavour throughout the community, seeking especially to include the least favoured sectors, out of a conviction that culture is not just a luxury for the wealthy nor mere leisure-time entertainment.

420. The Secretariat for Culture in the Office of the President has laid particular emphasis not just on the kind of action that brings culture to a public accustomed to it, a public that demands and engages in cultural activities, but also on action that leads to a broadening of the demand, allowing those who have never had access to cultural activities to enjoy them and opening up new areas where such activities are available to the widest possible public. To that end several different programmes have been undertaken to ensure equality of opportunity in access to culture.

421. Furthermore, measures have been taken to give effect to antidiscriminatory policy in the area of culture. Among such, the Under-Secretariat for the Elderly in the Ministry of Social Development has implemented a programme called "Story-telling grandparents". The purpose is to give older adults an active and integrated role in the community. It also means that the

children who listen to the stories will have a picture of the elderly as active, productive people and can see the prospect of growing old themselves in a positive light.

ARTICLE 5 (F)

XXXIII. RIGHT OF ACCESS TO ANY PLACE OR SERVICE

Situation of disabled persons

422. The technical experts of CONADIS have drawn up various projects and monitored compliance with Act No. 23,314 and its regulatory Decree No. 914/97 on questions of access for disabled persons, since it is an imperative of non-discrimination in this area to act with the knowledge and judgement necessary to ensure that all new construction and all adaptations always provide for full access.

423. At the same time, the Unit for Disabled Persons and Vulnerable Groups in the Ministry of Labour is implementing a programme for the removal of architectural barriers that is at present at the project stage. The main purpose is to adapt the access to public and private places, the means of moving about within them and other installations in such a way as to allow disabled people to make use of them, whether as workers or consumers, thus improving the material conditions for their integration in the workplace and society.

Note: For more detailed information under the present article, please refer to Argentina's fourth periodic report to the Committee against Torture, its fifth periodic report to the Committee on the Elimination of Discrimination against Women, its third periodic report to the Human Rights Committee, its second periodic report to the Committee on the Rights of the Child and its second periodic report on Economic, Social and Cultural Rights.

ARTICLE 6

XXXIV. EFFECTIVE REMEDIES AGAINST ACTS OF DISCRIMINATION

424. The remedies prescribed by Argentine law to protect against acts of discrimination have been described in the previous sections, to which the reader is referred.

425. INADI has a complaints centre whose task is to receive and study the complaints of persons or groups that consider themselves the victims of discriminatory practices and to advise and assist them. The procedure is as follows: once the truth of the allegation is proved, a peaceful solution of the dispute is sought through legal advice, administrative management, mediation and free sponsorship. Since its inception, INADI has received about 3,500 complaints. The centre is also compiling a register of cases of discrimination throughout the country so as to draw up a statistical table of them.

426. In addition, in 2000 INADI signed an agreement with the Under-Secretariat for Security in the Ministry of the Interior for the preparation of training courses in combating discrimination for the personnel of the National Gendarmerie, the Federal Prefecture and the Federal Police. An agreement has also been signed with the Under-Secretariat for Penitentiary Affairs of the Ministry of Justice and Human Rights for the training of prison staff. Furthermore, since 2001 the training programmes for officers and under-officers of the Federal Prison System have been

brought up to date by including the study of human rights, together with the Universal Declaration of Human Rights and the Code of Conduct for Law Enforcement Officials. The courses for officers include the subject "Applied ethics and human rights".

427. The present Human Rights Secretariat in the Ministry of Justice and Human Rights has received complaints and has provided protection and legal assistance, though always in consultation with INADI. Most of the Argentine provinces have local organs to intervene in similar fashion in cases of discrimination.

428. INADI has co-operated actively with the Under-Secretariat for Human Rights in encouraging antidiscriminatory practices not just in society but more particularly among civil servants. Both institutions as a result hold regular courses on ways of respecting human rights and combating discrimination. The Under-Secretariat has been holding them for years both in the Federal Capital and in the provinces.

XXXV. JUDICIAL RESOLUTIONS TO ENSURE EFFECTIVE REMEDIES

429. Various judicial resolutions have been adopted confirming the effectiveness of the principles of non-discrimination and the application of the remedy of amparo in accordance with the new provisions of the 1994 Constitution. The following rulings issued in recent years may be cited:

- a) Case of persons of the same sex cohabiting. Claim for the denial of a welfare pension on the death of one of the persons. Decided by the 11th Tribunal for Civil and Commercial Affairs and Mines in the City of Mendoza in October 1998. The claim was admitted, "since any distinction based on the fact that the persons cohabiting were of the same sex would be tantamount to discrimination prohibited by law".
- b) Case of Perkins. Judge Ballesteros of the Second National Tribunal for Federal Criminal and Correctional Affairs, secretariat no. 3, case no. 18,753, in deciding the matter on 23 November 1998 expressed some ideas regarding the concept of discrimination, mentioning two thought processes that precede any act of discrimination: stereotyping and prejudice.
- c) Case of Ricardo Iorio (violation of Act No. 23,592). Decided by the First National Tribunal for Federal Criminal and Correctional Affairs in March 2000. The allegation was that a grossly anti-Semitic expression had been used by a rock singer in an interview with the press. The existence of any injury was rejected, but the right of INADI to appear as plaintiff was admitted.
- d) Case of Cayetano Bagialemani v. Government of the City of Buenos Aires. Decided by the Civil Tribunal of First Instance of the Federal Capital in July 2000. The person bringing the suit, an ex-serviceman from the War of the Malvinas, claimed that he should be given preference in recruitment to the city of Buenos Aires civil service, since the government had publicly committed itself to that. The ruling admitted the demand, stating that otherwise the government would be involving itself in "subtly discriminatory conduct", by taking advantage of a specific minority, such as that of ex-servicemen, to present it as a beneficiary of rights, which it was in fact not allowed to exercise.

- e) Case of Lullo v. Government of the Autonomous City of Buenos Aires (amparo). The petitioner requests that the administrative provisions invoked to refuse him a renewal of his professional driver's licence because he has a criminal record be declared null and void. INADI, assisting Mr. Lullo, petitions for the repeal of all legislation that tends to stigmatize those who have served a sentence, thereby impairing such constitutional guarantees as *non bis in idem*. The evidence is at present being heard.

ARTICLE 7

XXXVI. INFORMATION – THE MEDIA

430. *Here the detailed activities described under each section of article 5 should be borne in mind.* The National Department for Promotion functions as part of the Human Rights Secretariat in the Ministry of Justice, Security and Human Rights, with specific tasks in the area of information. Its objectives are the following:

- a) Helping to include education in human rights and democracy at all levels of the formal education system as the foundation of good citizenship, guaranteeing human rights and preventing violations;
- b) Conducting informal human-rights education programmes jointly with governmental, non-governmental and international organizations;
- c) Training civil servants (agents of the national and provincial civil service) in the theoretical and practical aspects of human rights, since it is they who have functional responsibility for the implementation of public policy;
- d) Training police officers and security forces to perform their tasks in respect for the rules and principles established by current legislation and in accordance with the recommendations made by the United Nations;
- e) Promoting the Documentation Centre specializing in human rights which this Department manages;
- f) Encouraging publications that help to make human rights known and permit the study of the theory of human rights and their teaching.

431. These activities do not interfere with any that may be organized and carried out by the different human rights departments in the provinces. One should also point out that various national universities have included the subject of human rights on the syllabus of some of their faculties. This is also true of curricula in the secondary schools run by the government of the city of Buenos Aires.

432. Spreading information on human rights is also a fundamental task of the non-governmental community working in this field. A considerable number of NGOs have been set up in the country to perform different tasks. Many of them are purely local, while others are national branches of international bodies. Several Argentine NGOs have consultative status with the United Nations Economic and Social Council.

INADI measures to promote non-discrimination

433. Here the reader is referred to the information given under article 2.

Measures to promote the rights of women

434. Among the principal activities carried out by CNM in 2000 and 2001 the following may be mentioned:

a) *International seminars*

- The organization in conjunction with UNICEF, UNIFEM and the National Council for Children, Adolescents and the Family of the seminar entitled "Women's rights and children's rights: building full citizenship" (2000) to help in the preparation of an agenda for adjusting legislation and formulating public policy for women and children with a human rights and gender approach;
- The organization of the ECLAC/CNM/CIEPP seminar "The permanent incorporation of gender in public policy" (Buenos Aires, 2001).

b) *Training and technical assistance for staff of CNM and the Federal Plan*

- Workshops for co-ordination and exchange of experience;
- Information sessions on the Domestic Violence Register and the work on reproductive health;
- Workshop on graphic presentation and moderating techniques;
- Workshop on citizen participation;
- Workshop on project design and preparation (with civil society organizations);
- Workshop on training in the recognition and management of cases of domestic violence (2001).

c) *Awareness-raising and training for personnel*

- Participation in the launching in Jujuy in 2000 of the network of female legislators in the northeast and northwest regions.

d) *Training workshops*

- For the prevention of violence against women, with an evaluation of the Domestic Violence Register in various provinces.

e) *Awareness-raising sessions for the media*

- Working breakfast with journalists;
- Support for the campaign for a women's quota in the Legislature;
- Publicity campaign and promotion for the "International Day to Combat Violence against Women";

- A ceremony to commemorate the struggles, victories and achievements of women throughout Argentina's history;
- Publicity activities at the Book Fair;
- Presentation of the book Mujer y justicia (Women and justice), Buenos Aires, 10 May 2001;
- Co-ordination of the publicity campaign on workers' and employers' rights and duties contained in the special social security regime for domestic service workers (2001).

f) *Training and technical assistance for civil-society organizations*

- Signing of the agreement with the Argentine Federation of Bar Associations (FACA) to offer training to lawyers who deal with domestic violence. This includes providing free legal assistance to women victims of violence who cannot afford a lawyer (2001)
- Training and technical assistance for civil-society organizations: i) Joint organization with NGOs of a meeting of the Women's Forum against Corruption in September 2000; ii) Co-ordination with research and academic centres, experts and specialists with a view to establishing co-operation and exchange; iii) Signing of co-operation agreements with the National University of the Littoral and the National University of Southern Patagonia; iv) Agreement with CELAM, an NGO working to prevent genital and breast cancer; v) Joint organization with the Argentine Federation of Municipalities of the workshop "Exchange of experience on gender equity and local governments", as part of the second Regional Meeting on Affirmative Action to Promote Women's Participation in Local Government; vi) Invitation to NGOs to establish a civil-society forum to agree on and adopt joint action to protect women's rights and equality of opportunity and treatment (2001).

g) *Training for other States on request*

- Horizontal co-operation with the FO-AR programme of the Ministry of Foreign Affairs, International Trade and Worship on technical assistance and training for the Government of Nicaragua. The technical assistance involves pro-active measures in favour of women in the Government of Nicaragua's civil service, Managua;
- Technical assistance for Ecuador's development programme for indigenous and black people.

Report on Ministry of Education measures to combat prejudice and promote understanding, tolerance and friendship among various groups victims of discrimination

435. As part of the Professional Empowerment Project for Provincial Trainers, a two-year course was given to 106 trainers in ethics and citizenship training throughout the country. Those trainers then offered training in the schools of their provinces through the three cycles of basic general education.

436. In that course, teaching topics and strategies were considered in relation to the need to tackle the racial discrimination present in educational establishments. These are topics that are contained in the basic common curricula. The latter are the result of consultations with experts and representatives of the different communities in our country and their contents include concepts, attitudes and procedures concerned with respect for human rights and non-discrimination. For example, one of the things a graduate of basic general education is expected to be able to do in the area of ethics and citizenship is *"to recognise forms of discrimination and reject them on the basis of a defence of human rights"*.

437. The course was given by representatives of INADI, organizations that defend human rights, such as the Legal and Social Studies Centre, and the Holocaust Memorial Foundation. The provincial trainers received bibliographies and teaching materials to enable them to work on the subjects with trained teachers. Examples of the materials they were given are the text entitled "Six million times one" by Eliahu Toker and Ana Weinstein, published by the Ministry of the Interior, and the book "Education for citizenship and human rights" prepared by the Inter-American Institute for Human Rights and the Legal and Social Studies Centre and published by the Ministry of Education.

438. The Ministry of Education also published and distributed a series of booklets entitled "Proposals for the classroom". These booklets contain proposals to enable teachers of the three cycles of basic general education and polymodal education to deal with matters germane to the different parts of the curriculum. On the subject of ethics and citizenship training, proposals were made that included the problem of racial discrimination and the need to tackle it in school. For basic general and polymodal education, the booklets suggest ways of treating matters such as tolerance, recognition of others, cultural diversity and the rights of the child and the adolescent.

439. The Ministry also co-ordinated the preparation of a series of materials on "Social problems and the school". Among them is a text dealing with the problem of discrimination, addressed to the authorities and teaching staff of middle schools throughout the country. It speaks of the different types of discrimination that arise in society and in educational establishments, analyses their possible origins and the mechanisms associated with discrimination and proposes strategies to enable teachers to tackle the problem with their pupils.

440. In 2000, the Federal Council for Culture and Education determined that 19 April should be included in the school calendar as the Day of Living Together in Cultural Diversity. That date was chosen because it was 19 April 1943 which saw the beginning of the historic Warsaw ghetto uprising in the name of human dignity. With the aim of publicizing this decision and showing how to deal with this subject in schools, the Ministry of Education organized events in 2000 and 2001 in which students from schools of the city and province of Buenos Aires in the third cycle of basic general education visited educational exhibitions and took part in workshops prepared and co-ordinated by experts from the ethics and citizenship training and social sciences teams. The Ministry of Education and the Holocaust Memorial Foundation also jointly prepared a supplement published in the daily paper Clarín on 17 April 2000, which explained the spirit of the Day, gave information about it and made proposals for activities teachers could do with their pupils. The Ministry also sent information to mass-circulation children's magazines.

"Learning to Live Together" programme

441. The Ministry of Education took part in the UNESCO International Conference "Education for All for Learning to Live Together" held in Geneva in September 2001. Drawing on the

conclusions of that conference, the Ministry of Education, with the participation of UNICEF, the UNESCO International Institute for Educational Planning and the Organization of Ibero-American States for Education, Science and Culture began the implementation of the programme "Learning to live together" with the aim of taking advantage of the efforts being made by activists in the educational community in pursuit of just and peaceful co-existence and adding to their force.

Act publicizing the rights of indigenous peoples

442. On 12 June 2002, the Congress adopted Act No. 25,607 providing for the launching of a campaign to publicize the rights of indigenous peoples, as contained in paragraph 17 of article 75 of the national Constitution.

443. The Act stipulates that the planning, co-ordination, execution and evaluation of the publicity campaign should be the task of the relevant authority, namely the Human Rights Secretariat of the Ministry of Justice and Human Rights, with the co-operation of INAI and the active and direct participation of the communities of the indigenous peoples involved, who would be invited in the person of their respective organizations.

444. INAI is to provide the Human Rights Secretariat with a translation, both oral and written, of the substance of paragraph 17 of article 75 of the Constitution into the different languages of the peoples that inhabit Argentina today. Special care must be taken that these translations and the publicity do not distort the meaning of the constitutional article, because we are dealing here with a variety of languages, cultures and traditions.

445. It is planned that the publicity campaign will use national radio and television channels and graphic materials and will be brought into educational establishments. At the same time, the assistance of intermediate groups, such as rural communities, non-profit civil associations and neighbourhood associations throughout the country will be solicited and they will be given whatever they need to carry out this task.

446. What is more, those provinces that subscribe to the regulations of the above-mentioned Act will be able to choose other means of diffusion in addition to those proposed and carry out a more intensive campaign in regions with a high proportion of indigenous people.

447. The Act establishes that the Human Rights Secretariat, in co-ordination with INAI and the indigenous communities involved, shall plan and hold training courses for indigenous communities to inform them of their rights and duties with regard to ways and means of transmitting information in accordance with their traditions and cultures.

448. The publicity campaign is to be held every two years, unless, once the relevant authority has assessed the results, it feels a shorter lapse of time would be more appropriate.

Annex I

INFORMATION ON THE OFFICE OF THE SPECIAL REPRESENTATIVE FOR WOMEN'S ISSUES AT THE INTERNATIONAL LEVEL

This body has as its primary responsibility to assist and advise the competent authorities on issues relating to the status and situation of women at the international level and in the foreign policy of the Republic.

Among its activities are the following:

1. Implementing and directing action concerning the status and situation of women in connection with foreign policy objectives, as well as action relating to gender problems and equality of opportunity.
2. Preparing instruction projects and operational plans and programmes for international events on the status and situation of women in which the Republic is involved, as well as events taking place in international organizations of which the Republic is a member.
3. Taking part with the competent departments in the study of domestic human rights legislation to bring it into line with the rules of international law on the status and situation of women.
4. Preparing and proposing outlines of international policy to be developed in harmony with the country's foreign policy regarding the treatment of gender problems and equality of opportunity and the position to be adopted in the different instances where such is required.
5. Representing the national Government at events and meetings of international bodies or foreign governments dealing with women's issues.
6. Co-ordinating the participation of national representatives in international and intergovernmental bodies and the activities taking place abroad concerning the situation and the rights of women and gender problems.
7. Participating in activities taking place in the country pursuant to international commitments, in co-ordination with the competent bodies, by virtue of the mandate of the Ad Hoc Follow-up Committee on the Platform for Action of the Fourth World Conference on Women (Beijing, 1995), which was set up in this Ministry by Decree No. 1013/95.
8. Establishing effective relations and maintaining permanent links with national governmental bodies in order to be able to co-ordinate with them the activities and information needed to establish frameworks for action in the international arena.
9. Participating in events and/or activities concerning women organized by the competent national and/or provincial bodies, in which foreign official representatives are present.

10. Fostering and providing guidelines for the development of relations and links with NGOs and academic institutes concerned with women.
11. Co-ordinating with the NGOs accredited in the country and with the relevant university departments machinery for the exchange of information and joint participation in projects being devised to fulfil commitments assumed by the country.
12. Maintaining a flow of ideas to and from NGOs and other autonomous bodies with the aim of creating a permanent dialogue and a forum for discussion of women's issues.
13. Supervising the co-ordination of activities and projects in conjunction with the international agencies, NGOs and State bodies involved.

Against the background of these responsibilities the following activities deserve mention.

MERCOSUR Specialized Women's Conference (REM)

The Specialized Women's Conference was set up by MERCOSUR Group Resolution No. 20/98 as a forum for the study of the situation of women in terms of the current legislation in the States parties of MERCOSUR, where equality of opportunity is concerned.

The principal objective of the Specialized Conference is to contribute to the social, economic and cultural development of the communities of the countries members of MERCOSUR

Members

In accordance with article 2 of the resolution that created it, the members of the Specialized Conference are government representatives of the four States parties and the respective national sections are co-ordinated by the national organs each State party designates. (The organ designated by Argentina is the Ministry of Foreign Affairs, International Trade and Worship.)

In the pursuit of its activities, the Conference can seek advice from the MERCOSUR Women's Forum, as well as other regional non-profit associations that are legally represented in the States parties and deal with women's issues in the areas related to MERCOSUR's objectives and principles.

By Ministry of Foreign Affairs Resolution No. 4040/98, the Under-Secretariat for Women of that Ministry was chosen as National Co-ordinator for Argentina with the power to convene the representatives who are to form the national section. In article 2 of that resolution the National Women's Council of the Office of the President was invited to appoint two representatives as members of the national section.

Ad Hoc Follow-up Committee on the Platform for Action of the Fourth World Conference on Women, Beijing, 1995

Background

In view of the commitments made at the Beijing Conference, the national Government decided it was necessary to co-ordinate women's affairs in their national and international dimensions. So, the Executive set up within the Ministry of Foreign Affairs, International Trade and Worship an ad hoc committee to monitor implementation of the Plan for Action resulting from the Fourth World Conference on Women.

The Ad Hoc Committee is made up of a representative from each ministry and State secretariat, from the President's Office and from each of the other State Powers, from each provincial government and from the Women's Office of the Government of the City of Buenos Aires. Representatives of NGOs, trade unions and university circles have also been included on the Committee. Information meetings have been held with NGOs as a way of maintaining and fostering links with this important form of citizen participation in the treatment of women's problems and in order to co-ordinate their work within the framework of co-operation and co-ordination of tasks between the Government and the private sector.

To optimize the operation and organization of the Committee, the country was divided into seven regions, with one representative for each:

- Argentine North-west – representative from Tucumán province
- Argentine North-east – representative from Corrientes province
- Centre – representative from Córdoba province
- Patagonian region – representative from La Pampa province
- Cuyo – representative from Mendoza province
- Buenos Aires – representative from Buenos Aires province
- City of Buenos Aires

Once the Committee had been established in March 1996, a first plenary meeting was held, which produced a plan of action and the decision to hold regional meetings between the months of July and October that year.

The Beijing Platform for Action sets 12 strategic objectives and measures to be implemented during the decade 1995-2005. Work was done on them up to the end of 1999. Among the 12 strategic objectives, that concerning "Women and poverty" was considered a priority for Argentina and so the first stage of the Committee's work was devoted to achieving that objective.

"Violence against women" was the subject of many meetings, suggestions for legal frameworks and a sharing of experience regarding best practices in each part of the country, so as to be able to discard those that had not proved their efficacy and publicize those that had.

Another of the strategic objectives considered was that regarding "Women and the economy", featuring in particular women managers of micro-enterprises and SMEs. This was thoroughly examined, difficulties were tackled and a trend emerged towards the creation of women's networks with organizational principles, to facilitate production and marketing.

The subjects of education and training for women and health and Empowerment were also fully considered.

Action undertaken in 2002

The Committee entered a new phase of operation and further actions and initiatives agreed on at the Twenty-Third Special Session of the United Nations General Assembly (the conclusions known as "Beijing plus 5") were added.

The Women's Directorate in the Foreign Office prepared a questionnaire in order to include the initiatives coming out of the regional meetings held on two crucial subjects of the Platform for Action which coincided with the thematic issues planned for consideration at the forty-seventh session of the Commission on the Status of Women, held in New York in March 2003: enhancement of institutional capacity for the implementation of the Beijing Platform for Action and Beijing plus 5, and women's rights and the elimination of all forms of violence against women, including trafficking in women and girls.

Tripartite Commission on Equality of Opportunities and Treatment between Men and Women in the Workplace

At the urging of the ILO, the Tripartite Commission on Equality of Opportunities and Treatment between Men and Women in the Workplace was formally established in October 1998.

The Commission is convened and co-ordinated by the Ministry of Labour and Social Security and is made up of representatives from the business sector, delegated by the Sub-Committee on Women and Work of the Industrial Union of Argentina and the Argentine Chamber of Commerce; from the trade-union sector, delegated by the Women's Institute of the CGT and UPCN; and from the government sector, whose leaders are the Ministry of Labour and Social Security, CNM and the Office of the Special Representative for Women's Issues at the International Level in the Ministry of Foreign Affairs, International Trade and Worship.

Its task is to develop strategies for increasing equality of treatment and opportunity for men and women in the labour market, with regard to employment integration and vocational and technical training; to foster consensus among the sectors; to win agreement for measures to promote equal conditions of access to employment, treatment and training; to provide technical advice and to make diagnostic studies of the situation of working women.

Action on trafficking in persons, especially women and girls

a) First Interdisciplinary Symposium on Trafficking in Women

The symposium took place in the Palacio San Martín on 20 March 2003 and was attended by international experts from the Inter-American Commission of Women and IOM, as well as representatives of NGOs and the Church and executives from the national Government; The aim

of the symposium was to encourage joint efforts to tackle an international crime whose significant growth has caught the attention of the international community.

b) Trafficking in persons in MERCOSUR

The problem of the traffic in persons, especially women and children, was raised by Argentina at the Ninth MERCOSUR Specialized Women's Conference that took place in Asunción on 22 and 23 May 2003. On the basis of the proposal made by our country, a paragraph (para. 9) was included in the Joint Communiqué of the Presidents of MERCOSUR, Bolivia and Chile, dated 18 June 2003, establishing the commitment of the Governments to including the issue on their agenda and to working in co-ordination and jointly on the matter.

c) Follow-up action

To give continuity to the work already done, an initiative is now being implemented to bring together the different sectors of the national government in concrete actions to tackle the problem of the traffic in persons, especially women, adolescents and children, from an integral, interdisciplinary, networking perspective. The competent national bodies are to prepare a list of activities to be undertaken in their different fields, from the moment a complaint is first lodged or a case becomes known up until measures of legal, medical and psychological assistance can be taken and opportunities found to return the victims to their communities in conditions of safety.

**National campaign to commemorate the International Day
to Combat Violence against Women**

- To commemorate the International Day to Combat Violence against Women, the Office of the Special Representative for Women's Issues at the International Level of the Ministry of Foreign Affairs, International Trade and Worship, together with CNM and the national Human Rights Secretariat launched a campaign to raise awareness about the problems of violence against women.

Objectives

- To inform the entire population about the events that led to the commemoration of this Day;
- To raise awareness of the magnitude of the problems of violence against women in our country;
- To give information about government programmes to deal with these problems.

Action

- A booklet was prepared and distributed (through the Argentine National Bank) containing the history of how this Day came to be instituted and information about international conventions and national legislation and programmes;
- With the collaboration of State-owned media (Canal 7 and Radio Nacional), a programme about the Day was broadcast in which women from the different sectors of society discussed the present situation of women in our country. During the week

of 25 November there were televised "spots" in which male celebrities of Argentine culture gave their thoughts on the subject. Radio Nacional devoted a programme to ideas about the problem, which included a telephone conversation with Sra. Adela Mirabal, the sister of La Mariposa.

- With the assistance of the National Institute of Cinema and Audiovisual Arts, films and documentaries considering the problems of violence against women from different perspectives were shown in various cities of Argentina.
