

## Forty-sixth session

12-30 July 2010

# Concluding observations of the Committee on the Elimination of Discrimination against Women

## Argentina

1. The Committee considered the sixth periodic report of Argentina (CEDAW/C/ARG/6) at its 926th and 927th meetings, on 13 July 2010. The Committee's list of issues and questions is contained in CEDAW/C/ARG/Q/6, and the responses of Argentina are contained in CEDAW/C/ARG/Q/6/Add.1.

### Introduction

2. The Committee expresses its appreciation to the State party for the timely submission of its sixth periodic report and commends it for its declared political will and efforts to improve the status of women in Argentina.

3. The Committee also expresses its appreciation to the State party for the constructive dialogue and the efforts made by the delegation, headed by the Permanent Representative of Argentina to the United Nations, who was accompanied by the President of the National Women's Council, to respond to the questions raised by the Committee. It notes, however, that the delegation did not provide succinct, clear and direct answers on some of the topics under discussion and left some of the questions raised by the Committee during the dialogue unanswered, in particular respect of the first part of the Convention.

### Positive aspects

4. The Committee congratulates the State party on the ratification of the Optional Protocol to the Convention and on the specific legislative measures adopted and the social policies and programmes put in place since 2004, particularly in the areas of poverty reduction, the granting of pension rights and other social security measures which have improved the status of women and their access to education, with the aim of countering the effects of the global economic crisis that hit the country in 2001. The Committee also welcomes the efforts made to counter the effects of the economic and financial crisis of 2008-2009 and, particularly, the steps taken to introduce a gender perspective, in keeping with the Convention. It noted an impressive increase of 176 per cent in investments, the decline in poverty rates relating to women and girls and the prioritization of women and girls in social security policies.

5. The Committee commends the State party for its measures to increase the participation of women in public life and for taking positive action to ensure them equality of opportunity and treatment. It particularly welcomes the fact that, for the first time, a woman has been elected President, that two women judges have been appointed to the Federal Supreme Court of Justice and that, as of December 2007, 38.5 per cent of the executive positions within the national Government were held by women.

6. The Committee also welcomes the adoption of the Comprehensive Law on the Prevention, Punishment and Elimination of Violence against Women in their Interpersonal Relations (Law 26,485 (2009)), which covers all forms of gender-based violence, including physical, psychological, sexual, economic and patrimonial violence; establishes an obligation to put in place preventive measures to assist women victims; and creates the Observatory on Violence. It further welcomes the setting up of the Office for Cases of Domestic Violence within the Federal Supreme Court of Justice.

7. The Committee welcomes the efforts undertaken by the Government to address the crime of trafficking in human beings and avoid the revictimization of victims, in particular the ratification in November 2002 of the United Nations Convention against Transnational Organized Crime and the two Palermo protocols thereto by means of Law 25,632, and the adoption in April 2008 of the Law on the Prevention and Punishment of Trafficking in Persons (Law 26,364 (2008)), which amends the Criminal Code and the Code of Criminal Procedure and prohibits and punishes all forms of trafficking in persons. The Committee notes that the law will be implemented under the National Programme for the Prevention and Punishment of Trafficking in Persons and for Victim Support.

8. The Committee further welcomes the fact that, in the preparation of its sixth periodic report, the State party adopted an inclusive and participatory approach, and notes that the National Women's Council received extensive contributions from various Government agencies and bodies. Contributions were also provided by the Federal Women's Council, which represents the provinces in the national machinery for the advancement of women. Contributions were also received from the legislative branch and the judiciary.

### Principal areas of concern and recommendations

**9. The Committee recalls the State party's obligation to systematically and continuously implement all the provisions of the Convention on the Elimination of All Forms of Discrimination against Women and views the concerns and recommendations identified in the present concluding observations as requiring the State party's priority attention between now and the submission of the next periodic report. Consequently, the Committee urges the State party to focus on those areas in its implementation activities and to report on the action taken and the results achieved in its next periodic report. The Committee calls upon the State party to submit the present concluding observations to all relevant ministries, to the parliament and to the judiciary so as to ensure their full implementation.**

## Parliament

**10. While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the State party's obligations under the Convention, the Committee stresses that the Convention is binding on all branches of Government and invites the State party to encourage its parliament, in line with its procedures and where appropriate, to take the necessary steps with regard to the implementation of the present concluding observations and the Government's next reporting process under the Convention.**

### **Accountability of the federal Government**

11. While the Committee is cognizant of the complex federal constitutional structures of the State party, it underlines that the federal Government is responsible for ensuring the implementation of the Convention and providing leadership to the provincial and territorial governments in that context. The Committee expresses its concern that the federal Government lacks an efficient mechanism to ensure that the provincial governments establish legal and other measures to fully implement the Convention in a coherent and consistent manner.

**12. The Committee, taking into account the responsibility of the federal Government for the implementation of the Convention, urges the State party to establish an effective mechanism aimed at ensuring accountability and the transparent, coherent and consistent implementation of the Convention throughout its territory, in which all levels of government — national, provincial and municipal — participate.**

### **Status of the Convention in the domestic legal order and its visibility**

13. While commending the State party for granting constitutional status to the Convention on the Elimination of All Forms of Discrimination against Women and other international human rights instruments in its national legal system, the Committee notes that their effective implementation, as well as general awareness-raising of their provisions and the adoption of legislation and other measures prohibiting all discrimination against women, remains limited. The Committee is concerned about the general lack of awareness of the Convention and its Optional Protocol in Argentina, in particular among the judiciary and other law enforcement officials. It is particularly concerned that women themselves are not aware of their rights under the Convention nor of the complaints procedure under the Optional Protocol, and thus lack the capacity to claim the full promotion, protection and fulfilment of their rights on an equal basis with men.

**14. The Committee urges the State party to adopt legislative and other measures, including sanctions where appropriate, prohibiting all forms of discrimination against women and promoting equality, as well as to implement measures to create awareness of and adequately disseminate the Convention, its Optional Protocol and the Committee's general recommendations among all stakeholders, including Government ministries, parliamentarians, the judiciary and law enforcement officers, so as to create awareness of women's human rights. The Committee further urges the State party to undertake awareness-raising campaigns targeted at women to enhance women's awareness of their human rights and to ensure that women can avail themselves of procedures and remedies for violations of their rights under the Convention.**

### **Access to justice and legal complaints mechanisms**

15. The Committee is concerned that, while women's access to justice is provided for by legislation, their ability in practice to exercise that right and to bring cases of discrimination before the courts is limited by such factors as lack of information about their rights, language barriers, particularly for indigenous women, and other structural difficulties in accessing the courts. The Committee is also concerned about gender stereotyping by the justice system and its lack of knowledge on discrimination on the grounds of sex and gender as well as on violence against women.

**16. The Committee requests that the State party take all appropriate measures to remove impediments women may face in gaining access to justice and to put in place measures to ensure women's access to justice. It specifically recommends that the State party enhance women's awareness of their rights, inter alia in rural areas and among the most disadvantaged groups, including indigenous communities, through legal literacy programmes and legal assistance so that they can gain knowledge of available legal remedies for discrimination and abuse and claim all their rights under the Convention. It further urges the State party to ensure that the judiciary, including judges, lawyers, prosecutors and public defenders, is familiar with the rights of women and the obligations of the State party under the Convention. The Committee also encourages the State party to provide training on gender awareness to all members of the justice system, including law enforcement agencies, and to monitor the results of such efforts.**

### **National machinery and integration of a gender perspective into national policies and programmes**

17. While welcoming the efforts of the State party, the Committee is concerned that, despite the recent increase in the provision of financial and human resources to the National Women's Council, the Council has not yet fully overcome the structural challenges it has faced since its inception in 1992. As a result, the national machinery seems not to be fully able to effectively promote the advancement of women and gender equality nor to develop and implement public policies throughout the country. There are serious discrepancies in the implementation of the Convention among the provinces and municipalities, and social obstacles remain to be addressed.

**18. The Committee recommends that the State party continue to strengthen the existing national machinery by addressing the structural weaknesses that hamper its effective functioning and by providing it with adequate financial and human resources, with a view to making it more effective, visible and capable of influencing the formulation, design and implementation of public policies and to strengthening its coordination role at the national, provincial and municipal levels. It also calls on the State party to further invest in the development of a comprehensive gender indicator system,**

with a view to improving the collection of disaggregated data as a means of assessing the impact and effectiveness of policies and programmes aimed at mainstreaming gender equality and enhancing women's enjoyment of their human rights. The Committee also stresses the need for a comprehensive plan of action to address social obstacles, stereotypes and misconceptions, with a view to changing attitudes and effectively implementing the law.

19. While welcoming the implementation of several income transfer programmes aimed at reducing poverty and addressing the lack of housing, including the extension of family allowances through the Universal Allowance per Child for Social Protection, the Committee notes that these policies have not fully incorporated a gender perspective in their design and implementation.

20. The Committee recommends that the State party ensure that gender perspectives are integrated into all policies and programmes.

### **Temporary special measures**

21. While taking note of the existence of temporary special measures in the domestic legislation of the State party, particularly in connection with the political and trade union-related sectors, the Committee notes their limited applicability in other areas in terms of both their conceptualization and implementation.

**22. The Committee urges the State party to promote an ample debate regarding article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25 and to put in place in all areas, including the civil, political, economic, social and cultural areas, temporary special measures, with a view to achieving effective gender equality, particularly for those women who suffer from multiple forms of discrimination.**

### **Violence against women**

23. While welcoming the Comprehensive Law on the Prevention, Punishment and Elimination of Violence against Women in their Interpersonal Relations, Law 26,485 (2009), the Committee is concerned that, a year after its adoption, there has been no implementing legislation or sufficient allocation of financial resources to implement that law.

**24. The Committee urges the State party to speed up the adoption and the implementation, in a consistent manner and in all provinces, of implementing legislation and the provision of financial resources to give full effect to the Comprehensive Law on the Prevention, Punishment and Elimination of Violence against Women in their Interpersonal Relations. This must include the effective implementation of the existing legislation, at the national, provincial and municipal levels, to combat all forms of violence against women, including domestic violence. The Committee encourages the State party to strengthen its system of data collection in regard to all forms of violence against women and to include such information under the Committee's follow-up procedure referred to in paragraph 51 of the present concluding observations. With specific regard to marital rape, the Committee urges the State party to put in place a system to encourage women to report, as well as a set of indicators to assess trends in both the reporting and incidence of this crime.**

25. The Committee commends efforts by the State party to bring to justice perpetrators of crimes against humanity committed during the last dictatorship. It regrets, nevertheless, that sexual violence committed against women in clandestine detention centres during the last dictatorship was not punished.

**26. The Committee recommends that proactive measures be taken to ensure that sexual violence committed during the last dictatorship is publicized, prosecuted and punished in the context of the trials for crimes against humanity, in keeping with Security Council resolution 1820 (2008), and that reparations be granted to victims.**

### **Women in detention**

27. The Committee expresses its concern at information received that points to a high number of women in prison, the persistence of violence against women detainees, the recurrence of vaginal searches and inspections, instances of women being killed while in detention and overall poor conditions of detention. The Committee also notes that measures to prevent the recurrence of such acts, to enhance the protection of women detainees and to prosecute perpetrators of sexual violence against women in prison remain limited.

**28. The Committee recommends that the situation of women in prison be addressed through the development of comprehensive gender-sensitive policies, strategies and programmes and, in particular, urges the State party to ensure that women in detention are supervised by gender-sensitive prison staff and that male guards are not employed as front-line staff in women's institutions. It further urges the State party to take appropriate steps to guarantee full respect for the dignity and human rights of all persons during body searches, in full compliance with international standards, and to establish an external redress and oversight mechanism for women prisoners that is independent, comprehensive and accessible.**

### **Trafficking and exploitation of prostitution**

29. While commending the State party for having embarked upon placing the issue of trafficking in human beings high on the national agenda, the Committee is concerned about the transnational nature of the crime of trafficking and exploitation of prostitution, for example the cross-border network of recruiters involved in trafficking, and the reintegration of victims in the countries of origin. Furthermore, the Committee notes the need to work with the related machinery at the provincial and municipal levels, especially in northern Argentina and in the north-eastern areas where there are more groups at risk.

**30. The Committee urges the State party to further strengthen its efforts in anti-trafficking activities with a view to addressing fully and comprehensively the complexities of a crime that is international in nature. The Committee also**

**urges the State party to complement Law No. 26,364 of April 2008 by ensuring adequate protection of all women, independent of their age, as well as individuals who have been trafficked and who fear being subjected to persecution upon return to their country of origin, in accordance with international standards.**

### **Political participation and participation in public life**

31. The Committee welcomes the fact that there has been a significant increase in the number of women involved in politics; that, for the first time, a woman has been elected President and that female presidential candidates secured a combined total of more than 78 per cent of the votes cast; that a quarter of all ministries are headed by women and that, to date, 22 per cent of persons appointed at the level of Secretary of State and 23 per cent at the level of Under-Secretary are women. It also notes that a significant number of senior and/or executive positions in other agencies and bodies, within the national Government and at the provincial government level, within the national legislative branch and in some provincial legislatures, within the judiciary and, to some extent, the private sector, are held by women. Nevertheless, the Committee also notes that there are marked differences among the provinces.

**32. The Committee urges the State party to address the significant disparity among the provinces in the level of political participation and representation of women, including by investing in educational and awareness-raising campaigns aimed at eliminating the prevailing social obstacles and dispelling the sexist attitudes and stereotypes that remain prevalent in some regions.**

### **Education**

33. While welcoming information pointing to the fact that progress has been made in the field of education, including through the achievement of Millennium Development Goal 2 and the drawing up and implementation of legislation on education, including National Law 26,058 (2005) on Technical and Vocational Education; National Law 26,150 (2006) creating the National Programme for Comprehensive Sex Education, which is mandatory throughout the country at all levels of education from the age of 5; and National Law 26,206, which makes explicit provisions for the incorporation of a gender perspective in education, and while noting with appreciation that the Government has identified the training of teachers and the review of textbooks as a priority, the Committee expresses its concern that gender stereotypes and the influence of the media may have an impact on women opting for traditional social occupations and on their limited comparative advantage in the labour market despite their remaining longer than men in the educational system and obtaining higher qualifications.

**34. The Committee urges the State party to ensure widespread dissemination of information relating to women's educational opportunities, including in respect of vocational education, with a view to further expanding women's professional choices, including access to higher-paying jobs. The Committee further recommends that gender training be mandatory for teachers at all levels of the educational system throughout the country, in all provinces and municipalities, with a view to eradicating gender stereotypes from both official and unofficial curricula. Specific strategies should be put in place to counter the prevalent patriarchal culture.**

### **Employment**

35. The Committee welcomes the measures aimed at reducing the unemployment rate of women, as well as the role of the Tripartite Commission on Equal Treatment and Opportunity in the Workplace. The Committee expresses its concern at the unequal working conditions of women in both the formal and informal sectors of the economy, the persistence of occupational segregation and the concentration of women in low-paying jobs, wage disparities between women and men in both the public and private sectors, the lack of childcare services and the absence of legislation to address sexual harassment in the workplace. Despite some measures having been taken to protect domestic workers, the Committee expresses concern at their continuing precarious situation.

**36. The Committee urges the State party to take all the necessary steps to ensure better implementation of its labour legislation, to address pay gaps, to encourage women to take up employment in non-traditional fields, to enact legislation on sexual harassment in the public and private workplace, including effective sanctions, and to provide comprehensive protection to domestic workers. The Committee also encourages the State party to take measures in order to provide affordable and accessible childcare services to enable women to balance their work and family responsibilities.**

### **Health**

37. While appreciating the establishment of the national Programme for Sexual Health and Responsible Parenthood and, within its framework, the publication of the "Technical guide for the integral attention of non-punishable abortion cases" aimed at clarifying aspects of article 86 of the Criminal Code, the Committee notes that access to sexual and reproductive health-care services remains a significant problem for Argentinean women. The Committee further expresses its concern about the high pregnancy rate among adolescent girls and about high maternal mortality, one third of which is caused by illegal abortion.

**38. The Committee urges the State party to ensure women's and teenage girls' access to health services, including sexual and reproductive health services, and to see to it that education on sexual and reproductive health is undertaken in all schools at all levels, as relevant. It also urges the State party to adopt all the necessary measures to further reduce the high maternal mortality rate. The Committee further urges the State party to review existing legislation that criminalizes abortion, with serious consequences for the health and lives of women. The State party should ensure that the "Technical guide for the integral attention of non-punishable abortion cases" is applicable in the whole country in a uniform manner so that there is equal and effective access to health services to interrupt pregnancies.**

39. The Committee is concerned about the widespread use of tobacco among women in Argentina and the serious health impact of tobacco on women. The Committee is particularly concerned that women are often targets in tobacco advertising campaigns, which

encourage and increase the usage of tobacco among women, resulting in tobacco-related diseases and deaths.

**40. The Committee urges the State party to ratify and implement the World Health Organization Framework Convention on Tobacco Control and put in place legislation aimed at banning smoking in public spaces and restricting tobacco advertising.**

### **Rural women**

41. While acknowledging efforts aimed at decentralizing and providing training opportunities, relatively extensive health care and substantial credit loans, including to rural families, the Committee remains concerned about the situation of rural women, particularly older women and indigenous women, in view of their extreme poverty, marginalization and frequent lack of access to health care, education, credit facilities and community services.

**42. The Committee urges the State party to continue to pay special attention to the needs of rural women, including older women and indigenous women, ensuring that they participate in decision-making processes and have full access to education, health services and credit facilities.**

### **Disadvantaged groups of women**

43. The State party acknowledges that the rights of older women, women migrants and women with disabilities are not fully respected and that discrimination against them often takes place. Also, the State party recognizes that the rights of lesbian, bisexual and transgendered women are not fully respected and that sometimes they are discriminated against and are the targets of violence.

**44. The Committee urges the State party to ensure that the rights of older women, women migrants, women with disabilities and lesbians, bisexual and transgendered women, among others, are fully protected. All of the above-mentioned women should be able to live free from any discrimination or violence and to enjoy all their rights, including civil, cultural, economic, political and social, as well as sexual and reproductive, rights.**

### **Women refugees and asylum-seekers**

45. The Committee is concerned that, in spite of the enactment of the refugee law (Law No. 26,165), the establishment of the National Refugee Commission (CONARE) and the State party's participation in the regional programme of the Office of the United Nations High Commissioner for Refugees, the State party has not yet adopted all the necessary internal regulations to facilitate the effective implementation of the law and to fill some protection gaps, particularly those concerning asylum-seekers in vulnerable situations, including women, girls and unaccompanied children.

**46. The Committee urges the State party to facilitate the full and effective implementation of the refugee law (Law No. 26,165), particularly with regard to the protection of female asylum-seekers and refugees, as well as unaccompanied children, in particular through adopting all the necessary internal regulations. It also encourages the State party to continue to provide training to border migration and asylum officials to ensure that they adopt a gender-sensitive approach, effective implementation of a proper identification system and gender-sensitive measures in the refugee status determination procedure, including with regard to asylum applications based on gender violence. The Committee also urges the State party to complement Law No. 26,364 of April 2008 by ensuring adequate protection, in accordance with international law, to all women, independent of their age, as well as to individuals who have been trafficked and who fear being subjected to persecution upon return to their country of origin. In addition, measures should be adopted to ensure that women and girls who are refugees or asylum-seekers do not fall victim to trafficking in human beings or migrant smuggling, to create a mechanism to promptly identify victims of trafficking and to ensure the referral of those who might have protection needs to the asylum procedure.**

### **Beijing Declaration and Platform for Action**

**47. The Committee urges the State party, in the implementation of its obligations under the Convention, to fully utilize the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.**

### **Millennium Development Goals**

**48. The Committee emphasizes that full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and the explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Millennium Development Goals and requests the State party to include information thereon in its next periodic report.**

### **Dissemination**

**49. The Committee requests the wide dissemination in Argentina of the present concluding observations in order to make the people, including government officials, politicians, parliamentarians and women's and human rights organizations, aware of the steps that have been taken to ensure the de jure and de facto equality of women, as well as the further steps that are required in that regard. The Committee recommends that the dissemination should include dissemination at the local community level. The State party is encouraged to organize a series of meetings to discuss progress achieved in the implementation of these observations. The Committee requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Committee's general recommendations,**

the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly on the theme “Women 2000: gender equality, development and peace for the twenty-first century”.

### **Ratification of other treaties**

50. The Committee notes that the adherence of the State party to the nine major international human rights instruments would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee welcomes the State party’s ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

### **Follow-up to concluding observations**

51. The Committee requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 24 and 38 above.

### **Preparation of the next report**

52. The Committee requests the State party to ensure the wide participation of all ministries and public bodies in the preparation of its next report, as well as to consult a variety of women’s and human rights organizations during that phase.

53. The Committee requests the State party to respond to the concerns expressed in the present concluding observations in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its next periodic report in July 2014.

54. The Committee invites the State party to follow the “Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents”, which were approved at the fifth inter-committee meeting of the human rights treaty bodies in June 2006 (see HRI/MC/2006/3 and Corr.1). The treaty-specific reporting guidelines adopted by the Committee at its fortieth session, in January 2008, must be applied in conjunction with the harmonized reporting guidelines on a common core document. Together they constitute the harmonized guidelines on reporting under the Convention on the Elimination of All Forms of Discrimination against Women. The treaty-specific document should be limited to 40 pages, while the updated common core document should not exceed 80 pages.