



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

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Committee on the Elimination of Racial Discrimination

**Combined twenty-fourth to twenty-sixth periodic
reports submitted by Argentina under article 9 of
the Convention, due in 2020^{*}, ^{**}**

[Date received: 4 March 2020]

* The present document is being issued without formal editing.
** The annexes to the present report are available on the Committee's web page.

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I. Methodology

1. This report was prepared by the National Directorate for Matters Relating to International Human Rights Law of the Secretariat for Human Rights of the Ministry of Justice and Human Rights, and the Human Rights Directorate of the Ministry of Foreign Affairs, International Trade and Worship.
2. It was drafted on the basis of contributions from various competent authorities at the national and provincial levels.
3. Shortly after the new national Government took office, in order to ensure that the report was as comprehensive as possible, a working meeting was held with representatives of the National Institute to Combat Discrimination, Xenophobia and Racism, the National Institute of Indigenous Affairs and the National Migration Directorate, and specific information was requested from the National Statistics and Census Institute, the National Council for the Coordination of Social Policies, the Ministry of Labour, the Ministry of Education, the Ministry for Women, Gender and Diversity, the Public Prosecution Service and the National Congress.
4. In addition, in order to ensure that the report reflected the federal system, the Federal Human Rights Council initiated a procedure whereby information was exchanged with the provincial authorities. As a result of this procedure, information was received from the provinces of Buenos Aires, Chaco, Chubut, Córdoba, Formosa, Entre Ríos, Jujuy, La Pampa, La Rioja, Misiones, Neuquén, Río Negro, Salta, San Juan, San Luis, Santa Cruz, Tierra del Fuego, Antártida e Islas del Atlántico Sur and Tucumán, and from the Autonomous City of Buenos Aires. A report summarizing the information provided by the various authorities is attached as annex I.

II. Report submitted under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination

A. Introduction

5. On 10 December 2019, a new national Government took office in Argentina and pledged to strengthen the country's institutions and ensure the full enjoyment of human rights.
6. The President, Alberto Fernández, acknowledged that Argentina, as a democracy, still had some issues to resolve and affirmed his commitment to combating all forms of discrimination and to adopting a gender-sensitive and human rights-based approach in all areas.
7. In his inaugural address to the Legislative Assembly – which was his first public statement as President – he said:

In Argentina, many people also suffer as a result of stereotypes and stigma associated with their way of dressing, skin colour, ethnic origin, gender or sexual orientation. We will embrace all those who are discriminated against. Because any human being, any one of us, can be discriminated against for what we are, what we do or what we think. And that discrimination must become unforgivable.
8. It should be noted that, owing to the dates of the reporting period, the measures for the implementation of the Convention that are described in this document (the combined twenty-fourth to twenty-sixth periodic reports) were taken by the previous Government.
9. For this reason, in view of the importance attached by the new Government to the international protection system, and following in the State's long tradition of cooperation, the new Government will provide information on those measures that it considers worthy of note, while also seeking to acknowledge any shortcomings, difficulties or even setbacks in the implementation of the Convention, with a view to ensuring that the Committee's

concluding observations can be used to strengthen the country's policies for the protection of human rights.

B. General information on the implementation of articles 1 to 7 of the Convention

10. The national law that continues to serve as a framework for combating racism and discrimination in Argentina is Act No. 23.592 of 1988 on Discriminatory Actions. As reported previously, this Act, together with the Convention, an instrument that enjoys constitutional status under article 75 (22) of the Constitution, lays the foundation for combating the various forms of discrimination that exist in Argentina.

11. As regards new national regulations that were introduced during the period under review, it is worth noting that in August 2017, the National Executive issued Decree No. 658/2017 on the International Decade for People of African Descent and entrusted the Secretariat for Human Rights with the task of coordinating the activities carried out to mark the Decade and drawing up a national programme in that regard.

12. In November 2017, Act No. 27.400 was passed in order to extend to 23 November 2021 the validity of Act No. 26.160 on emergency measures relating to the possession and ownership of indigenous community lands.

13. In July 2019, the National Congress passed Act No. 27.512¹ on the Recognition and Protection of Stateless Persons. The aim of the Act is to ensure the widest possible enjoyment of human rights by stateless persons and persons seeking to be recognized as stateless and to regulate the procedure for determining the status of, protecting, assisting and facilitating the naturalization of stateless persons who are not refugees. Article 9 of the Act expressly establishes the principle of non-discrimination and guarantees the free and full exercise of all rights that are recognized by law to any stateless person who is subject to Argentine jurisdiction, without any discrimination based on ethnicity, colour, sex, sexual orientation, gender identity and/or expression, language, religion, political or other opinion, national, social or ethnic origin, economic position, birth, migratory status or any other social status.

14. In addition to these legislative developments, it should also be mentioned that in January 2017, the former President Mauricio Macri issued Emergency Decree No. 70/2017, which amended Migration Act No. 25.871 and Citizenship Act No. 346 and restricted the rights of migrants in Argentine territory. This Decree has prompted various observations from bodies within the universal human rights protection system, including the Committee against Torture,² the Committee on the Rights of the Child,³ the Committee on Economic, Social and Cultural Rights⁴ and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.⁵ The constitutionality of the Decree is currently being examined by the Supreme Court.

15. As regards the judicial measures adopted by Argentina during the reporting period to ensure the application of the Convention, the judicial authorities at the federal and local levels handed down various judgments that reaffirm the prohibition of discrimination, in line with the human rights treaties ratified by Argentina and the Constitution, in cases

¹ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/325000-329999/327259/norma.htm>.

² See Committee against Torture, CAT/C/ARG/CO/5-6, 24 May 2017. Available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fARG%2fCO%2f5-6&Lang=en.

³ See Committee on the Rights of the Child, CRC/C/ARG/CO/5-6, 1 October 2018. Available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fARG%2fCO%2f5-6&Lang=en.

⁴ See Committee on Economic, Social and Cultural Rights, E/C.12/ARG/CO/, 1 November 2018. Available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fARG%2fCO%2f4&Lang=en.

⁵ See Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, CMW/C/ARG/CO/2, 13 September 2019. Available at https://tbinternet.ohchr.org/Treaties/CMW/Shared%20Documents/ARG/CMW_C_ARG_CO_2_37078_S.pdf.

concerning freedom of religion, the rights of indigenous peoples and migrants, access to Argentine nationality and statelessness.

16. As regards freedom of religion, in a ruling of 12 December 2017, the Supreme Court declared unconstitutional the Salta Provincial Education Act,⁶ which states that religious education should be part of the provincial curricula, that it should be taught during school hours, and that the course content and teaching qualification must be approved by the relevant religious authority. The paragraphs of this ruling that are most relevant to the prohibition of discrimination include the following:

The standard set out in article 27 (ñ) of Salta Provincial Act No. 7546, although apparently neutral because its wording does not suggest that preference should be given to any particular faith, has undeniably had a disproportionate impact on minority religious groups, as it has allowed for the development of various systematic patterns of unequal treatment of minority religious groups and non-believers within the public education system of Salta Province.

...

With the constitutional reform of 1994, the recognition and protection of freedom of worship was reaffirmed through the removal of provisions that, in the context of a diverse and pluralistic society, restricted equality of opportunity on the basis of religious belief (for example, the requirement that the President and Vice-President must be Roman Catholics). This standard was also confirmed by the incorporation of human rights treaties into the country's supreme law, as instruments with constitutional status.

17. As regards the rights of indigenous peoples, the Federal Court of Criminal Cassation – the highest criminal court in the country – had the opportunity to rule on a habeas corpus application whose aim was to prevent the Gendarmería Nacional from entering lands occupied by an indigenous community without a court order from the competent authority. In its ruling of 13 July 2018, the Court held that the claim fell within the scope of article 75 (17) of the Constitution, which recognizes the ethnic and cultural pre-existence of the indigenous peoples of Argentina, the legal status of their communities and the community possession and ownership of the lands they traditionally occupy, and ensures their participation in the management of their natural resources and other interests affecting them, and found that this provision is directly applicable. The ruling of 13 July 2018 states that the protection of the territories of indigenous and tribal peoples is also linked to the need to ensure that they are securely and lastingly able to manage and use their natural resources and thus able to maintain their way of life.⁷

18. In its ruling, the Federal Court of Criminal Cassation recalls the following:

In this regard, it should once again be noted that: 'The State's general obligation acquires additional content in the case of indigenous and tribal peoples and their members. The Inter-American Commission on Human Rights has recognized that States must adopt special and specific measures aimed at protecting, favouring and improving the exercise of human rights by indigenous and tribal peoples and their members. The need for special protection arises from the greater vulnerability of these populations, their historical conditions of marginalization and discrimination, and the deeper impact on them of human rights violations. This positive State duty of adopting special measures is enhanced when it comes to indigenous children and

⁶ <https://www.cij.gov.ar/nota-28821--La-Corte-Suprema-resolvi--que-en-Salta-no-podra--darse-educacion-religiosa-en-las-escuelas-p-blicas-en-el-horario-escolar-y-como-parte-del-plan-de-estudios.html>.

⁷ <http://www.sajj.gov.ar/camara-federal-casacion-penal-federal-ciudad-autonoma-buenos-aires-comunidad-lof-campo-maripe-loma-campana-recurso-casacion-fa18260191-2018-07-13/123456789-191-0628-1ots-eupmocsollaf?q=moreLikeThis%28id-infojus%2C%20numero-norma%5E4%2C%20tipo-documento%5E4%2C%20titulo%5E4%2C%20jurisdiccion%2C%20tesauro%2C%20provincia%2C%20tribunal%2C%20organismo%2C%20autor%2C%20texto%5E0.5%29%3Acomunidad%20lof&o=0&f=Total%7CFecha%7CEstado%20de%20Vigencia%5B5%2C1%5D%7CTema%5B5%2C1%5D%7COrganismo%5B5%2C1%5D%7CAutor%5B5%2C1%5D%7CJurisdicci%F3n/Federal%7CTribunal/CAMARA%20FEDERAL%20DE%20CASACION%20PENAL%7CPublicaci%F3n%5B5%2C1%5D%7CColecci%F3n%20tem%E1tica%5B5%2C1%5D%7CTipo%20de%20Documento/Jurisprudencia&t=2>.

women, given that their level of vulnerability is even greater.’ (Inter-American Commission on Human Rights, *Indigenous and Tribal Peoples’ Rights over Their Ancestral Lands and Natural Resources: Norms and Jurisprudence of the Inter-American Human Rights System*, Organization of American States, 2010, para. 49).

19. Another important judicial decision that should be noted, in connection with the rights of migrants, is the ruling of 22 March 2018 of the Federal Administrative Court (Chamber V), in which the aforementioned Decree No. 70/2017 amending the Migration Act was declared to be unconstitutional.⁸ The points made by the Court included the following:

In short, the decree challenged in court not only constitutes an appropriation of legislative powers without constitutional cause, but also contains solutions that are incompatible with the constitutional and human rights standards that are part of the conditions of applicability of the international instruments on the subject (Constitution, art. 75 (22)). Moreover, the regulations in question refer to a vulnerable group and are somewhat regressive compared with previous legislation, in particular as regards the guarantee of due process during the migration procedure.

...

In this type of case, the State has an obligation to avoid both de jure and de facto discrimination. Indeed, if legislative distinctions are made, it may be argued that the State must prove that the regulation in question was introduced in pursuit of a fundamental State aim, that the means further that aim, and that the aim cannot be achieved by alternative means placing fewer restrictions on rights, in line with the standard established by the Supreme Court in rulings 327:5118, 329:2986 and 338:399, among others. This standard, which was laid down precisely in cases where the validity of regulations that drew distinctions on the basis of national origin was disputed, is particularly relevant to Decree No. 70/2017, which refers to a vulnerable group of persons who face legal and practical difficulties in accessing justice to defend their rights.

20. It should be noted that this ruling is not yet final and is being reviewed by the Supreme Court, as mentioned above.

21. As regards access to Argentine nationality, in a recent ruling of 11 February 2020,⁹ the Supreme Court set aside the decision of the La Plata Federal Court of Appeal revoking the declaration of Argentine citizenship made at first instance in favour of a foreign woman on the grounds that her knowledge of Spanish was inadequate.

22. The reasons given by the Supreme Court included the following:

Aside from the above, it should be noted that the claim that basic knowledge of the national language is a prerequisite for the exercise of political rights is unfounded, as there is no indication that foreigners residing in the country who lack such knowledge are currently prevented from obtaining the information they need in order to exercise diligently their right to vote.

23. Lastly, as regards statelessness, on 11 July 2019, the Supreme Court ruled on a case in which a father had applied for Argentine nationality by choice on behalf of his minor son, who had been born in Poland as a result of his marriage to a Polish woman, on the grounds that the child was undocumented and in a situation of statelessness.¹⁰ The Court noted that:

⁸ <http://www.saij.gob.ar/camara-nac-apelac-contencioso-administrativo-federal-federal-ciudad-autonoma-buenos-aires-centro-estudios-legales-sociales-otros-dnm-amparo-ley-16986-fa18100003-2018-03-22/123456789-300-0018-1ots-eupmocsollaf?q=%20titulo%3A%20CENTRO%20AND%20titulo%3A%20DE%20AND%20titulo%3A%20ESTUDIOS%20AND%20titulo%3A%20LEGALES%20AND%20fecha-rango%3A%5B20180322%20TO%2020180322%5D&o=0&f=Total%7CTipo%20de%20Documento/Jurisprudencia/Fallo%7CFecha%7COrganismo%7CTribunal%7CPublicaci%F3n%7CTema%7CEstado%20de%20Vigencia%7CAutor%7CJurisdicci%F3n/Federal&t=1>.

⁹ <http://sjconsulta.csjn.gov.ar/sjconsulta/documentos/verDocumentoByIdLinksJSP.html?idDocumento=7576331&cache=1582037594182>.

¹⁰ <http://sjconsulta.csjn.gov.ar/sjconsulta/documentos/verDocumentoByIdLinksJSP.html?idDocumento=7536942&cache=1581532103056>.

It should be pointed out that a natural consequence of the physical existence of a human being is the right to a nationality, understood as a bond of belonging between a person and a State that gives rise to reciprocal rights and obligations. Nationality expresses, without prejudice to other considerations of a historical, spiritual, emotional or cultural nature, a person's legal relationship with a State before which he or she may assert his or her rights. This is a fundamental and highly personal human right which has been recognized in various international instruments that have enjoyed constitutional status since the reform of 1994 (Constitution, art. 75 (12) and (22); see Convention on the Rights of the Child, arts. 7 (1) and 8; American Convention on Human Rights, art. 20; and International Covenant on Civil and Political Rights, art. 24).

24. As regards the institutional framework for combating racial discrimination, there are various government bodies whose work contributes to the fight against discrimination and the protection of certain racial groups, with the aim of ensuring equality.

25. First of all, the Ministry for Women, Gender and Diversity was established in December 2019, by Decree PEN No. 7/2019, to replace the National Institute for Women. Its establishment reflects the commitments made by the State with respect to women's rights and diversity and shows that gender issues are being treated as a priority in Argentina. The specific departments of this Ministry that are responsible for preventing and eradicating the multiple forms of discrimination that affect, in particular, indigenous women, women of African descent and migrant women, including lesbian, gay, bisexual, transgender and intersex persons, and other minorities, are described in another section of this report.

26. In addition, on 28 February 2020, the Senate approved an appointment to the position of Ombudsman for Children and Adolescents, which had been vacant for 15 years. The Ombudsman is the highest monitoring authority within the system for the comprehensive protection of children's rights. The deputies of the Ombudsman were also appointed.

27. Meanwhile, the National Institute to Combat Discrimination, Xenophobia and Racism of the Ministry of Justice and Human Rights is formulating comprehensive national policies to combat all forms of discrimination, xenophobia and racism, and is promoting and pursuing public policies for the development of a diverse and egalitarian society. The Institute runs specific anti-discrimination programmes and activities that are focused on people of African descent, indigenous peoples, migrants, gender and interculturalism.¹¹

28. The National Institute of Indigenous Affairs, an autonomous body that operates under the Secretariat for Human Rights of the Ministry of Justice and Human Rights, assists with inter-agency coordination in the field of indigenous affairs, in order to ensure the inclusion and development of all communities throughout the country. In 2017, an Indigenous Peoples' Interministerial Board, coordinated by the Institute and comprising representatives of various government bodies, was established with the aim of comprehensively addressing the most urgent problems facing indigenous peoples and facilitating their access to public policies.

29. Another body that operates under the Secretariat for Human Rights is the Federal Human Rights Council, which brings together the senior human rights authorities of the 24 administrative areas, as well as the national authority, to draw up human rights policies and ensure their implementation throughout the country.

30. The Secretariat for Human Rights also has a National Directorate for Pluralism and Interculturalism. The new Government that took office in December 2019 is aiming to replace it with the National Directorate for Ethnic and Racial Equality, Migrants and Refugees.¹² This National Directorate will be responsible for coordinating the efforts of the

¹¹ By Decree No. 57/2020, President Alberto Fernández extended the mandate of the Institute for 180 days, appointed Victoria Donda Pérez as its head and established that it would operate under the auspices of the Ministry of Justice and Human Rights. Available at <https://www.boletinoficial.gob.ar/detalleAviso/primera/224534/20200114>.

¹² The new organizational chart of the Secretariat for Human Rights has not yet been approved by ministerial decision.

various State agencies to develop a programme of activities for the International Decade for People of African Descent 2015–2024, which was proclaimed by Decree No. 658/2017.

31. The National Migration Directorate, which is part of the Ministry of the Interior, is responsible for outlining the country's strategy with respect to migration and for implementing public policies in this area. Under the new Government, there will be renewed focus on the principles that project Argentina as a country of opportunities, where respect for interculturalism and human rights is protected.

32. Lastly, the National Commission for Refugees, which is also attached to the Ministry of the Interior, is responsible for protecting the rights of refugees and asylum seekers who are under the jurisdiction of Argentina; to that end, it is empowered to take all necessary measures to ensure that refugees and their families are able to effectively enjoy their rights, in accordance with the principles of non-refoulement, non-discrimination, family unity and confidentiality, as well as the principle of the interpretation most favourable to the person or *pro homine* principle.¹³

III. Follow-up to the Committee's concluding observations on the combined twenty-first to twenty-third periodic reports

A. Poverty and social inclusion (para. 7 (a))

33. As mentioned above, Argentina recognizes that the drafting of periodic reports is an opportunity not only to present good practices and the progress achieved, but also to identify problematic situations.

34. It must be acknowledged that poverty in Argentina has risen significantly in recent years. According to the latest official figures published by the National Statistics and Census Institute, 25.4 per cent of households, comprising 35.4 per cent of the population, were living below the poverty line in the first half of 2019.¹⁴

35. In addition, the Food and Agriculture Organization of the United Nations has warned that food insecurity in Argentina increased by 71 per cent between 2015 and 2018, which is one of the biggest jumps recorded worldwide.

36. Given this delicate situation and the economic and social emergency in which Argentina now finds itself, the new Government that took office in December 2019 has adopted, as a priority social policy, the Argentina Plan against Hunger, which is to be implemented by the Ministry of Social Development through a comprehensive set of measures relating to food, health, safe water and infrastructure, supported by the National Food and Nutritional Security Programme.

37. The Plan mainly involves promoting and increasing access to the basic food basket for the most vulnerable members of the population, especially children, and seeking to develop production and marketing within the social economy, the cooperative movement and family farming.

¹³ Regulated by Act No. 26.165 and composed of representatives of the Ministry of the Interior, the Ministry of Foreign Affairs, International Trade and Worship, the Ministry of Justice and Human Rights, the Ministry of Social Development and the National Institute to Combat Discrimination, Xenophobia and Racism.

¹⁴ In addition, according to a report by the Argentina Social Debt Observatory of the Pontifical Catholic University of Argentina, 40.8 per cent of the urban population was affected by poverty in the third quarter of 2019. One of the most worrying figures in the report is the level of child poverty: the report states that 59.5 per cent of children and adolescents under 17 years old live in poor households.

On 26 February 2020, the Argentina Social Debt Observatory published a new report on multidimensional poverty for the period 2010–2019, which describes the situation faced by households in terms of their income and their enjoyment of rights such as access to food, health, basic services, decent housing, the environment, education, employment and social security. This report shows that there has been a marked deterioration since 2016 in the areas of food, health, access to employment and social security, and a steady increase in structural poverty (defined as three or more deficiencies). The report can be downloaded at <http://uca.edu.ar/es/noticias/la-pobreza-mas-alla-de-los-ingresos-informe-sobre-pobreza-multidimensional-2010-2019>.

38. Within this framework, the Government has started to distribute food cards that guarantee access to the basic food basket for parents with children up to 6 years of age who receive the universal child allowance, women who are at least three months pregnant and receive the pregnancy allowance, and persons with disabilities who receive the universal child allowance.

39. As at 1 March 2020 – 81 days after the new Government took office – almost 1 million families, including 1.6 million children up to 6 years of age, pregnant women and persons with disabilities, have received the food card, which gives them access to a basket of quality food products such as milk, vegetables, fruit, meat and other fresh foods.

40. The Argentina Plan against Hunger is also a tool designed to boost the economy by bringing producers and consumers together through local shops, in order to ensure that the food card, which represents an annual injection of more than 70 billion Argentine pesos (over 1 billion United States dollars), strengthens the domestic market. There are plans to complement these measures by creating more than 200,000 family vegetable gardens throughout the country as part of the “Pro-Vegetable Garden” programme.

41. Since the implementation of the Plan requires the active participation of all sectors of society, the Federal Council against Hunger has been set up to facilitate coordination between the State and civil society organizations, churches, trade unions and the productive sectors.

42. Furthermore, in response to the recent cases in which indigenous children died from malnutrition and dehydration, which represent a serious setback, the National Council for the Coordination of Social Policies, a decentralized body attached to the Office of the President, is taking a series of urgent measures to address the food and health emergency faced by indigenous communities in the Provinces of Salta and Jujuy.

43. In this context, on 18 February 2020 it established the Federal Social Water Board for Salta, bringing together national ministries, provincial government departments, representatives of the army, the National University of Salta and social and scientific actors with the aim of generating an integrated response that includes water supply infrastructure projects and health and nutritional care.

44. The aim is to rapidly implement coordinated public policies in the hardest hit departments of Salta, namely San Martín, Rivadavia and Orán. National funds have already been transferred to begin the drilling of water wells in the province.

45. In the Province of Jujuy, the National Council for the Coordination of Social Policies has also begun to work with the provincial government and the National University of Jujuy on political, technical and scientific efforts to combat hunger and to promote family farming.

46. Regarding the necessary steps to meet the Sustainable Development Goals, the National Council for the Coordination of Social Policies is conducting an interministerial and intersectoral dialogue, with the participation of the relevant ministries and agencies of the National Public Administration and the other branches of government. Within this framework, steps are being taken to provide technical assistance to provincial and municipal governments so that they can implement the 2030 Agenda for Sustainable Development in their respective jurisdictions by integrating the Goals into the design of their specific public policies.

B. Structural discrimination (para. 7 (b))

47. The President of Argentina recently expressed his views on the adoption of comprehensive policies to combat racism and racial discrimination. In his speech of 1 March 2020 at the opening of the 138th regular session of the National Congress, President Alberto Fernández said: “We will work to strengthen the role of indigenous peoples and migrant communities as subjects of rights, in accordance with our history and our legislation. Together with organizations and communities, we will develop strategies to end stigma, persecution and hate speech.”

48. In this regard, the National Institute to Combat Discrimination, Xenophobia and Racism continues to implement various policies to combat racism and racial discrimination,

including the programmes focused on people of African descent, interculturalism, indigenous peoples and migrants administered by its Directorate of Policies and Practices against Discrimination.

49. Such programmes promote social inclusion and equal rights for these groups, through the Institute's comprehensive approach to combating discrimination and racism, in close coordination with civil society organizations.

50. Joint actions taken in the context of these programmes include the design of information, outreach and/or training materials, such as leaflets and institutional videos, the organization of workshops and celebrations to promote human rights and prevent discriminatory practices, and interministerial coordination to promote a comprehensive policy against racism and discrimination.

51. Regarding people of African descent, between 2017 and 2019 the National Institute to Combat Discrimination, Xenophobia and Racism organized or participated in various activities that were coordinated with civil society organizations. These included the celebration of the National Day of Afro-Argentines and Afro Culture, which commemorates the anniversary of the death of María Remedios del Valle, a woman of African descent who served in General Manuel Belgrano's army and fought during the Argentine war of independence; the celebration of International Afro-Latin American, Afro-Caribbean and Diaspora Women's Day on 25 July, when women of African descent from various regions of Argentina hold large gatherings; a flash mob organized by the then Secretariat of Culture to commemorate the birth of Nelson Mandela; the Mandinga Festival, celebrating religions of African origin and their practice in Argentina; and Iemanjá Day celebrations.

52. As one of the most important parts of its interculturalism programme and with the goal of promoting interreligious dialogue to build a society without discrimination, in November 2017 the Institute held the seminar "Religious discrimination and best practices for its prevention" with national authorities and leaders of all religions and beliefs practised in the country.

53. The Institute has a virtual campus¹⁵ through which it organizes education and training courses based on its face-to-face activities.

54. In keeping with its comprehensive approach, the Institute has addressed the intersection of racial and gender discrimination through various activities: online courses, on-site training, workshops and the development of theoretical materials. In 2016, it decided to examine the intersection between racism and patriarchy in greater depth, specifically by considering the institution of prostitution as a paradigm of racial and gender oppression. In 2016 the Institute published the study *Prostitución y racismo: los cruces de la discriminación* (Prostitution and racism: intersections of discrimination),¹⁶ an updated second edition of which was issued in 2018.

55. Based on the cooperation agreements signed with the Buenos Aires Prison Service in 2017, 2018 and 2019, the Institute provided training for prison staff aimed at preventing discriminatory, xenophobic or racist attitudes and behaviours in all areas of the prison system.

56. The Institute's Work without Discrimination Unit cooperates with civil society organizations and companies to achieve inclusive labour relations. For this purpose, it has produced leaflets to disseminate information on labour rights and published a book entitled *Gestión de las Diversidades en las Organizaciones* (Managing Diversity in Organizations).¹⁷

57. Regarding indigenous peoples, it was mentioned in the information provided on follow-up to the concluding observations (CERD/C/ARG/CO/21-23/Add.1) that the Indigenous Peoples' Advisory and Participatory Council was created in early 2016 and is formed of leaders of indigenous communities from the most disadvantaged areas of the country. The Indigenous Peoples' Interministerial Board established in 2017 also continues

¹⁵ <http://inadi.gob.ar/campus-contenidos/cursos-correlativos.pdf>.

¹⁶ <http://inadi.gob.ar/contenidos-digitales/producto/prostitucion-y-racismo/>.

¹⁷ <http://www.inadi.gob.ar/contenidos-digitales/wp-content/uploads/2017/06/Gestion-de-las-Diversidades-en-las-Organizaciones-FINAL.pdf>.

to operate with the aim of ensuring the inclusion of indigenous peoples in public policies through a comprehensive nationwide approach.

58. The National Institute of Indigenous Affairs has cooperated with the National Registry of Persons and the National Social Security Administration to collect information and produce and issue national identity cards to members of indigenous communities. In this framework, between 2018 and 2019 the authorities conducted 11 operations in which approximately 2,500 national identity cards were issued and more than 800 applications for new cards were received.

C. Legislative agenda (para. 9)

59. A special committee on indigenous peoples has been created within the Senate.¹⁸ This parliamentary committee promotes an indigenous rights perspective in the legislative process, while giving priority to and increasing the visibility of indigenous rights in the National Congress. The establishment of a similar committee in the Chamber of Deputies is under discussion.¹⁹

60. The following bills are before the Senate, although none has yet been approved:

- S-2280/19: a bill on indigenous community ownership of land.
- S-2078/19: a bill on the translation into Spanish of indigenous language place names and other related issues.
- S-1984/19: a bill on the ownership of indigenous communal territories.
- S-89/19: a bill guaranteeing the effective participation of indigenous peoples in survey activities under Acts No. 26.160 and No. 26.894 on indigenous communities.
- S-2898/19: a bill on community sponsorship for persons in need of international protection.
- S-2238/19: a bill incorporating an article 17 ter into Act No. 20.744, the Employment Contracts Act, regarding non-discrimination in access to work.
- S-1743/19: a bill amending article 17 of the Employment Contracts Act in relation to the prohibition of discrimination in job vacancies, job searches and staff selection procedures.

61. Five parliamentary bills were introduced by the Chamber of Deputies in related areas:

- File No. 4764-D-2019²⁰ on the creation of a national indigenous census and information systems concerning *buen vivir* (good living).
- File No. 4617-D-2019,²¹ ratifying the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly on 13 September 2007.
- File No. 2957-D-2019²² on implementation of indigenous community ownership, amending Acts No. 23.302 and No. 26.209.
- File No. 0788-D-2019 (reproduction of File No. 7638-D-2016)²³ on fostering respect for and promoting Afro-Argentine culture.

¹⁸ <https://www.senado.gov.ar/parlamentario/comisiones/info/259>.

¹⁹ File No. 3466-D-2019 contains a proposal to establish the Indigenous Affairs Committee as a standing committee of the Chamber of Deputies.

<https://www.hcdn.gob.ar/proyectos/textoCompleto.jsp?exp=3466-D-2019&tipo=RESOLUCION>.

²⁰ <https://www.hcdn.gob.ar/proyectos/textoCompleto.jsp?exp=4764-D-2019&tipo=LEY>.

²¹ <https://www.hcdn.gob.ar/proyectos/textoCompleto.jsp?exp=4617-D-2019&tipo=LEY>.

²² <https://www.hcdn.gob.ar/proyectos/textoCompleto.jsp?exp=2957-D-2019&tipo=LEY>.

²³ <https://www.diputados.gov.ar/proyectos/resultados-buscador.html>.

D. Demographic composition of the population and statistical data (para. 11)

62. The statistical data currently available to the State were collected in the 2010 national census and duly reported to the Committee in the twenty-first to twenty-third periodic reports of Argentina (CERD/C/ARG/21-23).

63. The National Statistics and Census Institute will conduct a new national census in 2020, in accordance with the 2020 census plan, which incorporates the innovations required for integration with the international statistical infrastructure.²⁴

64. One of the goals of the 2020 census plan is to improve the measurement of specific communities, such as indigenous peoples, people of African descent and migrants.

65. The census is expected to involve the combined work of the entire National Statistical System, coordinated by the National Statistics and Census Institute and composed of the statistical services of national, provincial and municipal bodies, notably the provincial statistical offices of the provincial governments.

66. The second pilot test of the 2020 census was conducted on 8 September 2019 in four selected areas: the Autonomous City of Buenos Aires; Mar del Plata (Province of Buenos Aires); San Carlos de Bariloche (Province of Río Negro); and Humahuaca, Coctaca, Varas, Palca de Aparzo and Aparzo (Province of Jujuy).

67. This pilot test included self-identification questions for indigenous, Afrodescendent and immigrant populations, both in the basic and expanded questionnaires (see annexes II and III).

68. Argentina has been and will continue to be a destination country for immigrants. Decisions were reached on some 600,000 applications for residency between 2017 and 2019.

69. Annexes IV and V contain figures on the number of residency applications submitted and decided during the review period, according to the databases of the National Directorate of Migration. These figures are broken down by administrative area in order to reflect their distribution in the national territory.

70. With regard to the collection and development of data on the demographic composition of the indigenous population, between 2017 and 2018, as part of the process of making indigenous peoples more visible, the Directorate for the Development of Indigenous Communities of the National Institute of Indigenous Affairs produced the tools and instruments needed to capture such data, georeference it and subsequently transform it into information. This process resulted in the development of a map of indigenous peoples²⁵ which was published online.

71. By Decree No. 1024 of 12 December 2017, the then National Secretariat for Human Rights and Cultural Pluralism published the National Human Rights Action Plan for the period 2017–2020.

72. The Plan was designed on the basis of the dialogue that took place between various governmental authorities, social actors and human rights experts that participated in a round of consultations to validate the documents produced.

73. It focuses on five areas, each with specific objectives, targets and indicators: (1) inclusion, non-discrimination and equality; (2) public safety and non-violence; (3) memory, truth, justice and reparation policies; (4) universal access to rights; and (5) civic culture and commitment to human rights.

74. A public platform was launched for the monitoring and evaluation of the activities carried out under the Plan. The 2017–2018 mid-term report on the Plan was issued in June 2019.²⁶

²⁴ The 2020 national population, household and housing census plan can be consulted at https://www.indec.gob.ar/ftp/cuadros/poblacion/censo2020_resumen_ejecutivo.pdf.

²⁵ <https://www.argentina.gob.ar/derechoshumanos/inai/mapa>.

²⁶ Available at https://www.argentina.gob.ar/sites/default/files/informe_medio_termino_sdh_2019.pdf.

E. Criminalization of racial discrimination (para. 12)

75. In the twenty-first to twenty-third periodic reports, the Government reported that racial discrimination was defined as an offence in domestic legislation in 1988, by Act No. 23.592, which is known as the Act on Criminalization of Discriminatory Actions.

76. As was indicated, article 3 of the Act provides for two specific criminal offences, while article 2 defines persecution or hatred on the grounds of race, religion, nationality or membership of a national, ethnic, racial or religious group as an aggravating circumstance.

77. Article 3 of the Act states that: “Persons participating in an organization or engaging in propaganda based on ideas or theories of the superiority of a race or group of persons of a particular religion, ethnic origin or colour, the objective being to justify or promote racial or religious discrimination in any form, shall be punished by 1 month’s to 3 years’ imprisonment.” That is the first criminal offence set forth under the article. It continues: “Persons who by any means encourage or incite persecution or hatred against a person or groups of persons on account of their race, religion, nationality or political views shall incur the same penalty.” That is the second offence.

78. The latter provision might be considered the offence closest to racial hate speech in the Argentine legal system.

79. According to contemporary legal doctrine and case law, “the criminal offence under consideration is a malicious act in which the malice includes the knowledge that persecution or hatred is being encouraged or incited”. Furthermore, “the behaviours discouraged by the criminal provision do not take the form of an isolated discriminatory comment, unless such a comment is designed to encourage, incite, motivate or stimulate persecution or hatred against a person or group of persons on account of their race, religion, nationality or political views”.²⁷

80. Information is provided below on the application of Act No. 23.592, including statistical data on cases involving the Public Prosecution Service.

81. The Public Prosecution Service keeps records of offences committed under article 3 of the Act – in which regard investigations and prosecutions fall under the jurisdiction of the federal justice system – and on the application by the federal justice system and the ordinary justice system of the City of Buenos Aires of the aggravating circumstance foreseen in article 2. The statistics are therefore partial, since they do not cover the application of the aggravating circumstance in respect of ordinary offences committed in the rest of the country.

Cases filed under Act No. 23.592, by administrative area, 2017–2019

<i>Administrative area</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>Total</i>
Bahía Blanca		1		1
Autonomous City of Buenos Aires	11	13	10	34
Comodoro Rivadavia	3			3
Córdoba	4		1	5
Corrientes	1			1
General Roca		1		1
La Plata	3	1		4
Paraná		1	2	3
Rosario	1		1	2
Tucumán	1			1

²⁷ Federal Criminal Appeal Court, *Cabral, Carlos s/sobreseimiento* (Carlos Cabral on dismissal), issued on 7/8/12, cited by José D’Alessio (ed.) and Mauro Divito (coord.) in *Código Penal de la Nación, Comentado y Anotado* (The Criminal Code with Commentary and Annotations), updated and expanded second edition, vol. III, *Leyes Especiales Comentadas* (Special Laws with Commentary), La Ley, p. 1003.

<i>Administrative area</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>Total</i>
Posadas	1			1
St. Martín	8	4	1	13
Total	33	21	15	69

82. In addition to the offences set forth in Act No. 23.592, Argentine law contains various provisions criminalizing all other forms of discriminatory speech, which may or may not encourage hatred. The Criminal Code provides for the offences of public incitement to collective violence (art. 212), abetment (art. 209), public intimidation (art. 211), advocacy of an offence (art. 213) and association for ideological coercion (art. 213 bis).

83. Therefore, it may be concluded that all of the conducts described in the Convention are prohibited in Argentine domestic law, and no situations have been detected in which these conducts might go unpunished owing to the lack of a defined offence.

F. Ombudsman and Office of the Ombudsman for Audiovisual Communication Services (para. 15)

84. The post of Ombudsman has been vacant since 2010. In 2017 the Joint Standing Committee on the Office of the Ombudsman commenced the selection procedure under the terms of article 2 (b) of Act No. 24.284, but the process was again discontinued.

85. On the expiry of the set deadline and having considered various candidates, in November 2017 the Joint Standing Committee issued resolution No. 006/17, by which it put forward three candidates for the post of Ombudsman to the two chambers of the National Congress. However, the parliamentary process was unsuccessful and no progress has been made since then.

86. Notwithstanding the above, Mr. Juan José Böckel currently holds the post of Acting Ombudsman pursuant to the authorization granted by the political groups of the Senate.

87. Meanwhile, the Office of the Ombudsman for Audiovisual Communication Services continues to operate without an appointed Ombudsman.

88. In September 2018, the Joint Standing Committee for the Promotion and Monitoring of Audiovisual Communications, Telecommunications Technologies and Digitalization decided, through resolution No. 22, to revoke the authorization granted in 2016 to Ms. María José Guembe to exercise the Office's administrative and operational functions until such time as an Ombudsman was appointed under the terms established by law. In her place, the Committee appointed Mr. Emilio Alonso, with the same powers and obligations, for a period of 60 days. On 3 May 2019, the Committee, through resolution No. 29, extended his mandate "until a new Ombudsman for Audiovisual Communication Services is appointed or until the Joint Standing Committee for the Promotion and Monitoring of Audiovisual Communications, Telecommunications Technologies and Digitalization decides to modify or revoke the authorization granted".

89. On the understanding that the Ombudsman for Audiovisual Communication Services is a vitally important role for the due fulfilment and respect of human rights, the National Communications Authority is engaged in ongoing dialogue and cooperation with the legislative branch in order to secure a prompt nomination for the post.

G. Institutional strengthening and participation (para. 17)

90. In accordance with the powers conferred by Decree No. 218/2012, the National Institute to Combat Discrimination, Xenophobia and Racism carries out joint activities with civil society organizations that work to combat discrimination, xenophobia and racism and supports their efforts to prevent and eradicate discrimination, including through the transfer of resources and the organization of competitions for action projects. It also provides institutional sponsorship and financial support to civil society organizations for the

development and realization of various projects, activities, events and actions that help fulfil the purpose of Acts No. 23.592 and No. 24.515.

91. As for the budgetary resources allocated to combating racial discrimination, the 2018 Cuenta de Inversión (the annual budget execution report prepared by the executive),²⁸ the latest to have been published, can be consulted via the following links:

- National Institute of Indigenous Affairs/National Institute to Combat Discrimination, Xenophobia and Racism:

<https://www.economia.gob.ar/hacienda/cgn/cuenta/2018/tomoi/jur40.html>

- National Directorate of Migration:

<https://www.economia.gob.ar/hacienda/cgn/cuenta/2018/tomoi/jur30.html>

92. Regarding the institutional participation of migrants, the staff of the National Directorate of Migration includes migrants who perform duties related to their regions of origin, which is beneficial for the institution and for their fellow nationals.

93. Migrant communities participate in the annual celebration of Immigrant Day on 4 September, commemorating the arrival of immigrants in the country, and in the National Celebration and Meeting of Communities, a multicultural event in which the traditional customs (especially the gastronomy, music and dance) of countries from all regions are represented, highlighting the cultural diversity that exists in Argentina.

94. The Argentine Federation of Communities, associations of immigrants of different nationalities, diplomats, representatives of non-governmental organizations, international organizations and staff of the National Directorate of Migration, among others, participate in these events.

95. In terms of the participation of people of African descent, the appointment of the new Ambassador of Argentina to the Holy See is a noteworthy development. Not only will the new Ambassador be the first woman to hold this post, she was also the first Afro-Argentine woman to join the country's foreign service some thirty years ago. On 7 February 2020, the Vatican gave its approval to the appointment, which will be made official by presidential decree.

96. On 21 January 2020, the Secretariat for Human Rights launched the new National Directorate for Ethnic and Racial Equality, Migrants and Refugees at an event attended by State authorities, representatives of organizations of people of African descent, and migrants. The National Directorate, which will replace the National Directorate for Pluralism and Interculturalism, is headed by an activist and member of the Afro-Argentine community.

97. Furthermore, the National Disability Agency appointed a blind person from the Wichí community to take charge of its Disability and Indigenous Peoples Unit.

98. Finally, under the new Government, the National Institute of Indigenous Affairs has, for the first time, an indigenous Deputy President and two indigenous directors. The latter are responsible for managing two of the three directorates that implement the Institute's public policies.

H. Prior and informed consultation (para. 19)

99. Although there are not yet any specific regulations governing the consultation procedures for obtaining free, prior and informed consent, the National Institute of Indigenous Affairs plans to develop administrative protocols, adapted in accordance with needs, to address all issues concerning the interests of indigenous peoples, including infrastructure projects and projects for the exploitation of natural resources, alongside the development of legislative mechanisms for the effective application of said procedures.

100. Some provinces have adopted regulations and gained experience in relation to the free, prior and informed consent of indigenous peoples.

²⁸ For more information, see <https://www.economia.gob.ar/hacienda/cgn/cuenta/2018/tomoi/02intro.html#>.

101. For example, within the system of citizen participation through public hearings established in the Province of Formosa pursuant to Act No. 1.060 in 1993, the authorities have begun to use the consultation procedures for obtaining free, prior and informed consent in cases involving indigenous communities.

102. Likewise, Act No. 1.552 of 2010, establishing a land management programme for the Province, created an obligation to hold public hearings and consultations and to disseminate environmental information regarding projects that entail changes in land use, depending on the area of land planned for productive use.

103. There are numerous instances of communities participating in public hearings, in accordance with provincial legislation, in response to various production and infrastructure projects.²⁹

104. In the Province of Tucumán, an Interministerial Board on Intercultural Public Policies, aimed at developing public policies and government actions that respect indigenous peoples' cultural context, has been in operation since 2016. The Board has established a protocol to guarantee the rights of indigenous communities to consultation and participation in respect of issues concerning them.

105. There are also plans to establish a mechanism to ensure that the right to consultation and participation is recognized by all areas of government in cases involving indigenous communities. The proposal is currently available for evaluation by community authorities so that they can make suggestions for its improvement. Once this has been done, the proposal is expected to be approved by a ministerial resolution so that it can be effectively implemented.

106. In the Province of Jujuy, operating protocols have been established in respect of different indigenous organizations and peoples, detailing the way in which consultation processes should be carried out in their respective communities. A list of consultations carried out at the provincial level with various indigenous communities is provided.³⁰

107. Finally, in the Province of Córdoba, article 5 of Act No. 10.316 states that the Province's Council of Communities of Indigenous Peoples "shall deal with all matters involving – directly or indirectly – the interests of the communities of indigenous peoples of the Province of Córdoba".

²⁹ Public hearings in the framework of Act No. 1.060 were held on an intensive agriculture project planned by the company LIAG Argentina S.A. and a 3D seismic survey project in the Palmar Largo area, proposed by the company Pluspetrol S.A. At the first of these hearings, the statements of indigenous persons led to the modification of the original project in order to preserve the interests of the Laguna Yema and Pozo del Mortero communities. At the second hearing, the environmental impact of oil prospecting in an area in the west of the province was discussed. There was also considerable participation by indigenous communities in public hearings on road infrastructure projects, notably those on the construction of provincial route 28 in 2003 and 2004, provincial route 9 in 2008, provincial route 24 in 2008, provincial route 26 in 2009, national route 86 in 2012 and provincial route 20 in 2012. Also in 2012, a public hearing on the establishment of the Las Lomitas thermal power station was held with the active participation of communities from the area. Many indigenous persons participated in the public hearings that were held on the design of the land management plan of the Province of Formosa, with a view to the conservation of native forests and natural corridors. The above-mentioned legislation was also applied in the project to create the ecotourism centre of Bañado la Estrella.

³⁰ Comprehensive sewage project in Quebrada de Humahuaca stage II Totorayoc; Mining Environmental Management Subprogramme II-Metal Huasi-Abra Pampa; Solar Park Cauchari-Puesto Sey; New water supply project from the Yuraj Mine to La Quiaca; Comprehensive management of solid urban waste; International Festival of Sustainable Art "Jujuy, Andean Heart"-Humahuaca; Solar Villages-Catua-Olaroz Chico; Free Trade Zone Yavi-La Quiaca; Social Educational Agreement of the Province of Jujuy; Community Tourism Regulations; Tumbaya-Volcán-Bárcena Water Network and Supply System Project; Electricity Supply Project for the Municipality of Normenta-Department of Ledesma; Social and Environmental Impact Study for the Tilcara Strategic Urban Environment Plan; Photovoltaic Solar Project in the Province of Jujuy, installation and construction of Solar Villages; evaluation and approval processes concerning the environmental impact reports for the mining projects of the Provincial Mining Environmental Management Unit (UGAMP).

I. Land rights and land restitution (paras. 21 and 24)

108. Given the large number of indigenous communities to be surveyed, Acts No. 26,554, No. 26,894 and No. 27,400 have been passed in the Argentine Republic, extending the validity of Act No. 26.160 until 23 November 2021.

109. Within this framework, the following activities have been undertaken by the National Programme for the Territorial Survey of Indigenous Communities of the National Institute of Indigenous Affairs:

Number of communities identified at the national level by period

<i>Number of communities identified in 2006</i>	<i>Number of communities identified in 2016</i>	<i>Number of communities identified in 2019</i>
950	1 532	1 692

Number of communities surveyed at the national level since the beginning of the programme

<i>Surveys in progress³¹</i>	<i>Completed surveys³²</i>	<i>Total</i>
308	673	981

Results by province. Number of communities identified, surveyed and to be surveyed

<i>Province</i>	<i>Communities identified</i>	<i>Communities surveyed</i>	<i>Communities to be surveyed</i>
Buenos Aires	50	24	26
Córdoba	11	6	5
Corrientes	3	0	3
Chaco	111	34	77
Chubut	99	54	45
Entre Ríos	3	2	1
Formosa	152	25	127
Jujuy	296	199	97
La Pampa	14	13	1
La Rioja	1	0	1
Mendoza	27	10	17
Misiones	111	75	36
Neuquén	55	23	32
Río Negro	92	64	28
Salta	492	311	181
San Juan	5	5	0
San Luis	3		
	9	0	3
Santa Cruz	9	8	1
Santa Fe	53	37	16
Santiago del Estero	79	71	8
Tucumán	18	17	1
Tierra del Fuego	1	1	0

³¹ “Surveys in process” refers to the territorial surveys that are begun without an administrative order and that are at various stages of completion in terms of field work, office work, the final administrative stage, etc.

³² “Completed surveys” refers to the territorial surveys with an associated administrative order.

<i>Province</i>	<i>Communities identified</i>	<i>Communities surveyed</i>	<i>Communities to be surveyed</i>
Total	1 692	981	711

Source: Own compilation based on data from the National Institute of Indigenous Affairs as of 28 November 2019.

110. One of the most important administrative steps taken during the survey process by the National Programme for the Territorial Survey of Indigenous Communities of the National Institute of Indigenous Affairs, the aim of which is to facilitate the ownership and titling of lands and territories, has been to map the lands occupied by each community. The map produced forms part of the technical dossier that is delivered to the communities as the final outcome of the territorial survey process.

111. Once this process has been completed, the next step is to award or issue community titles for all or part of the land traditionally, currently and publicly occupied by the community.

112. The National Institute of Indigenous Affairs reports that between 2007 and 2017 the following land was awarded to indigenous communities:

<i>Province</i>	<i>File</i>	<i>Year</i>	<i>Extract</i>	<i>Community</i>	<i>Hectares</i>
Chaco	50387	2007	Purchase of land	Pozo del Toro indigenous community	254 hectares
Neuquén	50001	2007	Mapuche Ancatrutz group (Neuquén) upon demarcation request – community strengthening programme	Mapuche Ancatrutz group	20,776 hectares
Río Negro	50183	2008	Indigenous Community Development Council upon rectification of measurements demarcating the territory of the Lipetrén community (Río Negro)	Lipetrén community	165,000 hectares approx.
Río Negro	50464	2009	Mapuche Lofche Millalonco Ranquehue community (Río Negro) upon receipt of a subsidy for measurement of communal territory	Mapuche Lofche Millalonco Ranquehue community	Tripay Antú community: 1,733,166.48 m ² / Millalonco Ranquehue community: 1,809,491.57 m ²
Jujuy	50592	2010	Programme for the implementation of indigenous community ownership – Aparzo indigenous community and others (Jujuy)	55 communities mentioned below: Aparzo, Hornaditas, Rodero, Hornocal, Coraya and Ovara, Queta, Tambillos (Cochinoca), Puesto del Marqués, Sauzalito, Casabindo, Coyaguaima, Aguas Blancas, Sayate Oeste, Casti, Cangrejillos, Yaví Chico, Redonda, Quebrada de Lecho, Sansana Sur, Caracara, Pórtico de los Andes Susques, Paso de Jama, Coranzulí, Piedra Negra, Chucalezna, Cangrejos, el Morado – San Roque, Valle de Piscuno – San Juan de Quillaques, El Toro Rosario de Susques, Yavi, “la Unión”, Volcán de Yacoraite, Maimará, Quebraleña, Sansana	In process 550,660 hectares

<i>Province</i>	<i>File</i>	<i>Year</i>	<i>Extract</i>	<i>Community</i>	<i>Hectares</i>
				Norte, Abrolaite, Hornaditas de la Cordillera, Yala de Monte Carmelo, San Juan y Oroz, Santuario de Tres Pozos, La Quiaca Vieja, Del Barrio San Pedrito (Maimará), Casira, Oros mayo, Negra Muerta – Iturbe, Punta Corral Ex–finca Zelaya, Mina Puma Wasi, Molulo, El Portillo, Casa Colorada, Yumpaite, Oros mayo Grande, Pozo Colorado, Corral Blanco, Cieneguillas, Azul Kasa, Azul Pampa, Villa San José	
Chaco	50029	2010	Ministry of the Provincial Government, Justice, Security and Labour of Chaco upon measurement of the perimeter of the indigenous reservation in the Impenetrable Chaco national park (Province of Chaco)	Toba, Mocoví and Wichí communities living in the province	308,000 hectares
Buenos Aires	50139	2011	Mapuche Epu Bafkeh community – Los Toldos (Buenos Aires) upon purchase of land	Mapuche Epu Bafkeh community	0 hectares, 2,875 m ²
La Pampa	50902	2012	Agreement with the Government of La Pampa Province for the purchase or expropriation of land for the Ranquel Epumer community, legal status under No. 131/07 in the National Register of Indigenous Communities, Medanos Rosa plot.	Ranquel Epumer community	5,038 hectares
Mendoza	50202	2012	Directorate of Environmental Planning and Urban Development upon implementation of Act No. 6,920 – measurement of the territory of the Huarpe Milcallac people (Province of Mendoza)	12 communities: Huarpe Guaytamari community, Huarpe José Andrés Díaz indigenous community, Huarpe Paula Guaquinchay indigenous community, Huarpe Secundino Talquenca community, Huarpe Josefa Pérez community, Huarpe Juan Bautista Villegas community, Huarpe Lagunas del Rosario community, Huarpe Santos Guayama indigenous community, Huarpe Elias Guaquinchay community, Huarpe José Ramón Guaquinchay indigenous community, Huarpe Güentota community, Huarpe Juan Bautista Villegas community, Huarpe Pinkanta community.	700,000 hectares

<i>Province</i>	<i>File</i>	<i>Year</i>	<i>Extract</i>	<i>Community</i>	<i>Hectares</i>
Jujuy	50536	2013	Programme for the implementation of indigenous community ownership – communities of Casira, Sayate Oeste, Cangrejillos, Quebradeña and la Redonda	Casira, Sayate Oeste, Cangrejillos, Quebradeña and la Redonda	44,474 hectares 13,864 m ²
Salta	50056	2013	Agreement – implementation of communal ownership by the indigenous communities settled in plots 14 and 55 in the Department of Rivadavia (Province of Salta)	Indigenous communities of the Wichí, Chorote, Chulupí, Qom and Tapiete peoples, settled in State plots 55 and 14	400,000 hectares

J. Lhaka Honhat Association of Indigenous Communities (para. 22)

113. The communities grouped together as Lhaka Honhat are claiming a single property title without subdivisions in the name of all the indigenous communities that live on former State plots 55 and 14 in the Department of Rivadavia, Province of Salta.

114. In the absence of a response from the State, in 1998 Lhaka Honhat filed a complaint with the Inter-American Commission on Human Rights.

115. In its report on the merits issued in 2012, the Inter-American Commission on Human Rights stated that the communities' rights had been violated and ordered the corresponding reparations.

116. The Inter-American Commission on Human Rights decided to bring the case before the Inter-American Court of Human Rights in 2018, bearing in mind that the State had not complied with the recommendations. Recently, the Court announced that, during its 133rd regular session held in January 2020, it issued a judgment against the Argentine State; however, that judgment has not yet been formally communicated to Argentina.

117. Nevertheless, annex VI contains a report prepared by the Province of Salta in 2018, describing the efforts made by the State to ensure compliance with the Commission's recommendations, which proved insufficient.

118. On 14 February 2020, the Lhaka Honhat Association of Indigenous Communities and the Centro de Estudios Legales y Sociales (Centre for Legal and Social Studies (CELS)) requested various national ministries and provincial authorities to take urgent action to assist the indigenous communities in order to prevent further deaths of children from malnutrition, poor nutrition and dehydration, bearing in mind that the situation that has led to the hospitalization and death of Wichí children is closely related to the lack of effective policies in recent years to guarantee and protect the rights of indigenous peoples to their traditional territory.

K. Safety of indigenous peoples (para. 24)

119. During the meeting of the Internal Security Council held on 13 February 2020 in San Miguel de Tucumán, the Minister of Security, the Minister of Justice and Human Rights, the Minister of the Environment and Sustainable Development and the heads of the National Institute of Indigenous Affairs and the National Parks Administration signed an agreement for the establishment of a Mechanism for the Alternative Settlement of Territorial Conflicts with Indigenous Peoples, which will address all claims involving indigenous communities, with a view to finding consensual and peaceful solutions.

120. The agreement aims to ensure compliance with the obligations arising from local regulations and international treaties and conventions concerning the rights of indigenous peoples in such areas as protection of the environment; preservation of the natural resources of their lands; consultation with and participation in matters affecting those resources; and preservation of land ownership recognized both in individual and collective terms.

121. The Mechanism will be composed of at least one representative and one alternate from the following bodies: the National Institute of Indigenous Affairs, the National Parks Administration and the Under-Secretariat for Federal Programming and Legislative Coordination of the Ministry of Security.

122. The agreement also establishes that the Mechanism for the Alternative Settlement of Territorial Conflicts with Indigenous Peoples may be launched at the request of any of its member bodies or at the request of one or more provincial governments, which will join the Mechanism through a complementary act. Other national and/or international governmental and non-governmental actors, as well as specialists in the field, may also be invited to participate in the development and implementation of the actions resulting from operation of the Mechanism.

123. Within 30 days following the signature of the Mechanism for the Alternative Settlement of Territorial Conflicts with Indigenous Peoples, a basic protocol of action will be formulated to serve as the basis for handling each situation requiring intervention.

124. The importance of this interministerial agreement lies in the fact that the links established between the signatories will enable them to resolve conflicts in a coordinated manner through dialogue, making space for mutual understanding that will prevent the violation of the rights of indigenous peoples. The recognition of an instrument like the Indigenous and Tribal Peoples Convention, 1989 (No. 169) represents a significant step forward in how State agencies relate to indigenous peoples. Through the Mechanism, the State – rather than merely taking action with respect to territories and/or social groups – becomes a space for dialogue, negotiation and agreement that guarantees and preserves access to rights; this represents significant progress in terms of both respect for the pre-existing pacts invoked by the national Constitution and recognition of the diverse and intercultural nature of the Argentine population.

L. Situation of human rights defenders (para. 26)

The case of Massar Ba

125. As a result of the death of Massar Ba on 8 March 2016, charges were brought against Elena Carla Soledad Soto. On 4 October 2016, the officiating judge dismissed the pretrial proceedings against her on the basis that she did not have any connection with Mr. Ba's death and added that there was no evidence supporting the participation of third parties who might have contributed to or caused his death. The judge concluded that Massar Ba's death was not the result of an offence, but rather the consequence of consuming narcotic drugs that caused him to have hallucinations, delusions and paranoia, leaving him in a state that caused him to jump from the balcony of the brothel where he was.

126. The prosecution appealed this decision and it was later revoked by the Court on 15 December 2016, given that certain steps remained outstanding.

127. On 18 December 2017, the judge again dismissed the proceedings against Soto, a decision that was appealed by the prosecution and revoked by the Court on 22 February 2018 because "... in the prevailing context of the proceedings, it is currently impossible to affirm definitively that Massar Ba's death was the result of his own behaviour ... the measures suggested by the appellant are necessary to further the investigation ...".

128. The judge of first instance again dismissed the proceedings against Soto on 20 February 2019. Following the prosecution's appeal of this decision, the relevant Court, on 20 March 2019, revoked this decision, finding that "the uncertainty raised by this Court in its previous statement regarding the circumstances surrounding the death of Massar Ba, and the existence of evidentiary measures, such as those proposed by the Public Prosecution Service, prevent the adoption of a definitive ruling, since the purpose of these evidentiary measures is to identify those who might have witnessed what happened inside the apartment from which the victim fell. Although he did not present injuries from defending himself or caused by an attack by a third party, as the lower court points out, this alone does not rule out the hypothesis that another person could have intentionally thrown him off the balcony or forced him to jump ...".

129. Finally, on 28 October 2019, the officiating judge, after weighing the evidence in the case, again concluded that the only defendant had nothing to do with the death of Massar

Ba, and therefore decided to dismiss the proceedings against Elena Carla Soledad Soto. In this regard, the judge pointed out that there was not a single piece of conclusive and convincing evidence to suggest that Massar Ba's death was the result of criminal intent on the part of Ms. Soto, or that any third parties had contributed to or caused the death of the Senegalese national. The dismissal was appealed by the prosecution, but this time it was upheld by the Fourth Chamber, on 28 November 2019.

130. Consequently, on 29 November 2019, the judge ordered the case to be closed without further proceedings.

Situation of Félix Díaz

131. As reported by the National Institute of Indigenous Affairs, in September 2017, Mr. Félix Díaz, in his capacity as the *qarashé*, or traditional leader, of his community, received the findings of the dossier on the Potae Napocna Novogoh (La Primavera) community. This was the result of the technical, legal and cadastral survey conducted to establish the community's current, traditional and public occupation of the Province of Formosa.

132. The National Institute of Indigenous Affairs submitted a formal request to the judicial authorities of the Province of Formosa to guarantee access to justice for members of indigenous communities in criminal cases No. 742/2011 and No. 672/2011 against Félix Díaz, which are currently before the provincial courts, with the aim of ensuring respect for their cultural norms and enabling the defence of the specific rights recognized to indigenous communities and their members. Within the framework of case No. 672/11, entitled "*Díaz Félix and others to be determined on unlawful encroachment*", the High Court of the Province of Formosa decided that the statute of limitations on the criminal proceedings had expired in November 2018.

133. The National Institute of Indigenous Affairs also explained that, during the period covered by this report, a forum for dialogue and participation had been created by the establishment of the Indigenous Peoples' Political Dialogue Working Group under resolution No. 6 of 18 March 2016 of the Secretariat for Human Rights, and that the main coordinator of that forum was Qom *qarashé* Mr. Félix Díaz. Against that backdrop, several visits had been conducted in the community's territory to achieve progress concerning the use of natural resources under the jurisdiction of Pilcomayo National Park.

134. Furthermore, there are a number of mechanisms available to channel any type of claim, problem or conflict that might arise in the future in relation to Mr. Félix Díaz, his family and/or the La Primavera community, and that might require the intervention of provincial authorities.

135. In addition to current or future legal action, recourse may also be had to the Provincial Council Supplementing Internal Security, which coordinates the activities of provincial and federal forces in the Province of Formosa. If necessary, this Provincial Council could pass on any requests for coordination between provincial and federal forces that might have an impact on indigenous communities. At the same time, mechanisms are also available under the Institute of Aboriginal Communities of Formosa, whose objective is to provide ongoing support to the indigenous communities of the province.

The situation of Milagro Sala

136. With regard to the situation of Ms. Milagro Sala, it should first be noted that the Argentine State has received a number of decisions issued by bodies in the inter-American and universal human rights systems, including the Committee's concluding observations on the combined twenty-first to twenty-third periodic reports of Argentina.

137. For example, the Working Group on Arbitrary Detention issued Opinion No. 31/2016 on 31 October 2016, stating: "... In the light of the foregoing, the Working Group renders the following opinion: The deprivation of liberty of Milagro Amalia Ángela Sala is arbitrary (...) In accordance with this opinion, the Working Group requests the Government of Argentina to immediately release Ms. Sala and to afford her appropriate reparation (...)"

138. For its part, on 23 November 2017, the Inter-American Court of Human Rights ordered the adoption of provisional measures in relation to Ms. Milagro Sala to safeguard her life, personal integrity and health. In particular, the Inter-American Court required the Argentine State to place her under house arrest as an alternative to pretrial detention, as

well as to guarantee Ms. Sala's autonomy with respect to her health and to obtain her informed consent for medical or psychological examinations or treatment.

139. In this context, the Supreme Court of Justice concluded, on 5 December 2017, in the context of an appeal concerning an interlocutory matter raised in the case "*Sala, Milagro Amalia Ángela and others accused of unlawful association, defrauding the State and extortion*", that the appealed judgment was not arbitrary since local procedural rules had been reasonably applied. Nonetheless, the Supreme Court referred to the decision of the Inter-American Court and requested the judicial authorities responsible for Ms. Sala's pretrial detention to take urgent measures to comply fully with the orders of the latter Court.

140. In this respect, in the framework of case No. 1342/18 entitled "*Interlocutory appeal for review of house arrest of Sala, Milagro Amalia Ángela in principal case No. 822/18*", Criminal Court No. 3 of Jujuy Province reviewed the terms of Milagro Sala's house arrest, ordering her to be transferred to her home in the city of San Salvador de Jujuy. Currently, Ms. Sala is being held under house arrest.

141. With regard to measures to protect her health, the judicial authorities of the Province of Jujuy ordered that Milagro Sala be given the freedom to choose the health professionals she deemed necessary to care for her physical and mental health.

142. As long as the provisional measures are in force, the Argentine State periodically informs the Inter-American Court of Human Rights of the measures adopted to comply with that Court's decision.

143. On 20 February 2020, the Secretary for Human Rights of the Ministry of Justice and Human Rights visited Ms. Milagro Sala at the place where she is under house arrest, in accordance with the provisional measures ordered by the Inter-American Court of Human Rights.

M. Access to education (para. 28)

144. The Ministry of Education, through the Secretariat of Educational Management and in agreement with the provinces, implements pedagogical and socioeducational strategies for schools with indigenous students.

145. In this regard, the national goal is to support the progress of indigenous children and young people through school and to ensure their access to and continuation in culturally and linguistically relevant schools and their successful completion of preschool, primary and secondary education.

146. Since 2017, the Intercultural Bilingual Education Unit has been part of the National Directorate of Socioeducational Policies. It is developing policies to bolster the institutions of the relevant districts in the country's 24 administrative areas, as well as to support indigenous students in their progress through school, assist teachers in expanding the scope of teaching programmes in the classroom and ensure indigenous participation in the management of intercultural bilingual education policies.

147. It is strengthening indigenous participation by creating opportunities for consultation and participation with indigenous organizations and education representatives in each province, in order to reach agreements and institutionalize intercultural bilingual education policies.

148. Against this backdrop, a federal round table at which the Intercultural Bilingual Education Unit presented its areas of work; three regional round tables to develop the Provincial Indigenous Communities Plan; and four indigenous management round tables in the Provinces of Entre Ríos, Santiago del Estero, Córdoba and Corrientes were held in 2018. Three indigenous management round tables were held in the Provinces of Buenos Aires, Córdoba and Santiago del Estero in 2019, so that indigenous representatives could discuss and reach agreement on their participation in the implementation of intercultural bilingual education policies in their provinces.

149. In order to raise awareness of the presence of indigenous students and teachers in schools, 38,660 leaflets on "Guidelines for addressing the issue of indigenous enrolment" were prepared and distributed in 2018 to the offices dealing with provincial statistics and arrangements for intercultural bilingual education. Regional working groups were also held,

in order to develop a proposal for updating records and web-based data entry systems to include questions on intercultural bilingual education requirements, and strategies for improving the collection of data on the enrolment of indigenous students.

150. From 2017 to 2019, technical assistance was provided through on-site and/or blended-presence mechanisms that focused, inter alia, on the design of teaching and course materials to support educational services from an intercultural bilingual education perspective, in different indigenous languages, as well as the design of science fair projects.

151. In this regard, in 2017 four training activities were conducted in three provinces, reaching 332 teachers from 167 primary and secondary schools. In 2018, 47 training sessions were held in 14 administrative areas, reaching a total of 5,652 teachers and 1,735 preschools, primary schools and secondary schools. In 2019, 19 training activities were conducted in nine provinces, reaching 2,279 teachers and 60 students from 620 preschools, primary schools and secondary schools.

152. In order to strengthen the technical teams in each administrative area, the First National Seminar on Indigenous Languages was held in August 2019 in the Province of Córdoba, with the participation of intercultural bilingual education representatives and coordinators from across the country, speakers of 15 indigenous languages and members of the Autonomous Indigenous Peoples Education Council. An outcome document containing the final conclusions of the Seminar was drawn up.

153. Course materials to support classroom work and activities related to local development, initial literacy, the teaching of Spanish as a second language and the development of materials for teaching social sciences, natural sciences, mathematics and other curricular areas, especially at the secondary level, have also been published.

154. There is a scholarship programme for indigenous adolescents and young people up to the age of 18 who are students in regular attendance in the last year of primary school or in a government-run or private secondary school, whether in urban or rural areas. The data are as follows:

Investment in scholarships awarded 2017–2019

<i>Scholarship programmes</i>	<i>Investment in scholarships awarded</i>		
	<i>2017</i>	<i>2018</i>	<i>2019</i>
Indigenous communities	\$41 274 900	\$57 244 600	\$65 171 300

Distribution of scholarships awarded 2017–2019

<i>Scholarship programmes</i>	<i>Scholarships awarded</i>		
	<i>2017</i>	<i>2018</i>	<i>2019</i>
Indigenous communities	15 277	18 967	21 023

155. With a view to their future implementation, the content design and development stage for the following projects was completed in late 2019:

- A training path for indigenous teaching assistants in the intercultural bilingual education programme: profiles of the indigenous populations in the provinces with the highest enrolment of indigenous students were prepared with a view to providing the assistants with the educational and teaching tools to carry out their work under the same conditions as the rest of the teaching team.
- Practice-based workshops for teachers in the social sciences, the natural sciences and language and literature: these are gatherings of primary and secondary school teachers that are intended to serve as institutional educational spaces where the teachers can become aware of and develop the knowledge and know-how needed to apply an intercultural approach in their teaching.
- Continuing training in education management in a context of bilingual intercultural education: This course is aimed at secondary school management teams and builds

their capacity to manage and lead secondary schools with intercultural bilingual education programmes.

156. Finally, with respect to statistical data on members of indigenous communities, people of African descent and migrants in the education system, while these data have not yet been published in summary form in the Statistical Yearbook, the information is collected as part of the Annual Surveys carried out by the Directorate for Education Information and Statistics.³³

157. New user data sets began to be published in 2019 on the basis of information collected during the Annual Survey. These included a population data set with information on indigenous and foreign student enrolment broken down by variables such as institution, administrative area, whether the institution is government-run or private, whether it is in a rural or urban area and whether any other educational options are available.

N. Access to justice (para. 30)

158. With regard to measures aimed at preventing discrimination in relation to indigenous peoples' access to justice, the National Institute of Indigenous Affairs takes immediate action as soon as it becomes aware of legal cases involving inalienable rights of indigenous communities.

159. In such cases, the Institute seeks the application of the legislation in force — namely Act No. 26.160 and its extensions and regulatory decrees — as well as constitutional and treaty-based rules that protect the rights of indigenous communities. It also imparts information on the legal concept of community possession and ownership of lands, presents before courts georeferencing maps pinpointing the geographical location of communities, provides copies of resolutions recognizing legal status and supplies other references about the indigenous communities involved.

160. In addition, in order to ensure that the communities have effective access to the judicial system, the Institute finances numerous projects that make available to communities the funds to hire lawyers, anthropologists, notaries and any other trusted professionals whose involvement may be necessary to guarantee indigenous peoples' access to justice.

Communities where legal services are currently being operated or managed:

<i>Province</i>	<i>Communities</i>
Santiago del Estero	25 communities ³⁴ (4 Guaycuru; 12 Lule Vilela; 8 Vilela; 1 Sanaviron)
Neuquén	Aigo Mapuche group
Neuquén	Linares Mapuche group
Neuquén	12 Lafkenche and Xawvnko area Mapuche communities ³⁵
Mendoza	25 community groups in the Malalweche territorial organization ³⁶

³³ Available for consultation on the website of the Ministry of Education at <https://www.argentina.gob.ar/educacion/planeamiento/info-estadistica/bdd>.

³⁴ Sanaviron community: Sentimiento de mi tierra. Guaycuru communities: Plot 4, Plot 5, Bajo Hondo, Tres Mojones. Lule Vilela communities: La Armonía, El Retiro, Corral Quemado, Ashka Kaicu, Tusca Bajada, La Soledad y Villa Estela, Sacha Sumaj, Sin Fronteras, Muriska, Santo Domingo, Algarrobal, El Saladillo, Moradito, Anca Overa, Hauchama, Huinaj Pozo, El Barroso. Vilela communities: Pampa Vilela, Aluhampa, San Eduardo, El Tunal, Rincón del Saladillo, Tres Leones, Santo Domingo, Pampa Pozo.

³⁵ (1) Paicil Antreau, (2) Kinxikew, (3) Kintupuray, (4) Newen Mapu, (5) Puel Pvjv, (6) Campo Maripe, (7) Kaxipayiñ, (8) Newen Kura, (9) Wirkalew, (10) Ragiñ Ko, (11) Kolv Kura, (12) Fvta Xayen.

³⁶ Gulu/western area: Lof Malal Pincheira, Lof Butamallin, Lof El Altepal, Lof Laguna-Ibera, Lof Las Bardas Karilauquen, Lof Loncoche, Lof El Morro. Pikun/northern area: Lof Limay Kurref, Lof Sosneado, Lof Suyai Leufv, Lof Sosneado, Lof Yanten Florido, Lof Eluney, Lof Epv Leufv. Puel/eastern area: Lof Kupan Kupalme, Lof Rukache, Lof Yanten, Lof Waico Kelv, Lof Ñirreco, Lof

<i>Province</i>	<i>Communities</i>
Tucumán	1 community
Santiago del Estero	14 communities ³⁷ in the Atamisqui, Loreto, Avellaneda and Salavina districts
Jujuy	7 communities, ³⁸ Doctor Manuel Belgrano, Tumbaya, Ledesma, Tilcara, Palpalá

161. With regard to measures aimed at preventing discrimination in relation to migrants' access to justice, the National Migration Directorate has organized courses on migration policy and residency applications for the interdisciplinary teams at the Centres for Access to Justice, whose primary responsibility is to promote, facilitate and strengthen citizens' access to justice, as well as to foster all migrants' access to information.

162. The National Migration Directorate has also held joint working sessions on migration policy with the judicial authorities at the national and provincial levels, with participants including judges, defence attorneys, juvenile court assessors, prosecutors, clerks and lawyers in general, customs officials and officers from the Gendarmería Nacional and the Federal Police Force of Argentina.

O. Labour rights (para. 32)

163. With regard to measures aimed at preventing and eradicating discrimination in relation to indigenous communities' access to work, a working group on the inclusion of indigenous peoples in government policies on employment and training, which has been in operation under the Ministry of Labour, Employment and Social Security since late 2008, took a number of steps to promote the involvement of indigenous peoples in policies on employment and vocational training.

164. These steps included the signing of labour agreements and protocols with national and provincial government entities; indigenous associations, organizations and communities; and other civil society organizations, which facilitated the access of indigenous persons to training and employment insurance.

165. In addition, workshops were held to train the staff of territorial agencies in participatory mapping methods and raise their awareness of those methods. In these workshops, participants produced maps of labour-related resources in territories with an indigenous presence. The workshops led to an awareness on the part of some agencies that there were indigenous communities in their area of operation and resulted in the inclusion of young people from these communities in the Youth Employment programme.³⁹

166. It should be mentioned that, in 2018, the policy on training and employment insurance was deactivated and agreements with indigenous communities were no longer

Tremunko, Lof La Blanca, Lof La Triaka, Lof Wanguelen Mapu. Wili/southern area: Lof Poñiwe, Lof Ranquil Ko, Lof Chenque Ko.

³⁷ Ayllu Cacán de Codo, Ayllu Puncu Atun, Ayllu de Atamisqui, Ayllu Cacán de Mochimo, Ayllu Ashpa Nockayshpa Sapym Tulú Tulúmmanta, Ayllu de Ancocha, Ayllu Yacu Chiri, Ayllu de Santo Dionisio, Ayllu Ashpa Nokayshpa, Ayllu Taa Ayllus Kuska, Ayllu Cacán Ashpa Sumaj, Ayllu Kemikuy, Ayllu Cacán Ashca Caycu, Ayllu Tukuy Sujllayaj.

³⁸ Laguna del Tesorero, Tiraxi, Las Capillas, Tilquizas, Normenta Pacha, Corralon de Abra Mayo, Quebrada "El Queñual".

³⁹ These actions led to the signing of proposals for courses preparing young people for the world of work by two indigenous organizations in Salta and a third that, while not an indigenous organization, works with the indigenous population. These organizations were trained in teaching such courses and courses on employability, and the indigenous organizations engaged in training jointly validated the material that had been produced for indigenous communities. In other provinces, such preparation courses were held with a bilingual trainer (Misiones), with an indigenous tutor or course assistant (Derqui, Province of Buenos Aires) and within communities to facilitate access to them (Mendoza, Derqui, Misiones, Tucumán); all these measures ensured that the programme was interculturally appropriate.

being signed. This entailed a considerable reduction in the benefits available and changed the community approach that had provided opportunities to access employment.

167. Thereafter, efforts have been focused on bringing indigenous youth into the youth programme supported by International Bank for Reconstruction and Development loan No. 8464 for the promotion of youth employment. Efforts have also been made to reinforce the mechanisms for institutional coordination between teams operating at the central level and territorial agencies, employment offices, other government entities and communities in various provinces.

168. Participation in the Indigenous Peoples' Interministerial Board mentioned above has served to enhance this institutional coordination. Field operations are being carried out through the Interministerial Board in priority communities in seven provinces. These projects are publicized and the necessary steps taken to deliver the services in an interculturally sensitive manner.

169. As a result of these efforts, from January to November 2019, 2,711 young people from indigenous communities participated in employment and training activities through the Youth Employment programme, and 1,389 adults participated in such activities through the training and employment insurance scheme. A total of 5,371 youth and 5,480 adult members of indigenous communities participated between 2016 and 2019.

170. The National Institute of Indigenous Affairs reports that it has started coordinating with the Argentine Artisans' Programme. The Programme promotes local governance, self-sufficiency and ownership of projects. It creates opportunities based on local know-how.

171. Ten trials have been run in indigenous communities that have artisanal output, with the aim of exploring, strengthening and expanding the processes that support the endogenous creation of a national brand, and thereby ensuring job opportunities, overall improvements in the regional economies and the preservation of cultural heritage.

172. With regard to policies aimed at preventing and eradicating discrimination in relation to migrants' access to work, the National Migration Directorate promotes non-discriminatory access to the formal economy and the job market through the regularization of migrants' immigration status, as an irregular status makes migrants vulnerable and exposes them to abuse.

173. Article 23 (1) of the Argentine Migration Act includes "nationality" as a category and provides that nationals of Southern Common Market (MERCOSUR) States parties or associated States have access to Argentine residency by virtue of their nationality, resulting in Argentina becoming the country that has granted residency to the most individuals in the region.

174. Under this framework, the National Migration Directorate has adopted a series of measures to relax and/or streamline procedures for regularizing migrants' status. This has led to improvements in, among other areas, their access to the formal sector of the economy.

175. With regard to the detection of possible cases of exploitation and/or discrimination, between 2017 and 2019 the National Migration Directorate increased the number of audits performed under article 20 (e) of regulatory decree No. 616/2010.⁴⁰ This provision empowers the National Migration Directorate to verify the lawful status of foreigners residing in Argentina and, to that end, to conduct audits to verify that those who employ foreigners or provide them with accommodation are in compliance with their obligations. These audits, which are carried out throughout the country and in all spheres of the economy, are intended in part to encourage migrants to regularize their status and to prevent and/or detect situations of exploitation or abuse of foreigners – especially those with an irregular status, given the vulnerability that such a status entails – by employers or providers of accommodation.

176. Statistical data on the audits carried out in the country and the fines imposed on employers for violations of article 55 of the Migration Act (No. 25.871) over the past few years are provided below.

⁴⁰ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/165000-169999/167004/norma.htm>.

<i>Year</i>	<i>Audits</i>	<i>Violations of article 55</i>
2017	17 193	1 101
2018	27 788	1 512
2019	24 793	1 224

Source: National Migration Directorate database as at 31 December 2019.

P. Migrants (para. 34)

177. Measures initiated in recent years to promote the inclusion of migrants include several programmes aimed at facilitating the immigration of specific migrant groups.

178. For example, the Humanitarian Visa Programme for Foreigners Affected by the Conflict in the Syrian Arab Republic, known as “Programme Syria”, was approved under decisions No. 3915/2014⁴¹ and No. 4683/2016.⁴² Its goal is to provide protection to individuals fleeing the conflict in that country by facilitating their entry into the Argentine Republic through the processing of visas for humanitarian reasons. The programme is based on a community sponsorship scheme and is the result of an alliance between the State and civil society. Recipients of humanitarian visas who arrive in the country under this programme are assisted by individuals extending invitations or applicant organizations who commit to welcoming them and supporting them in their integration process during their first 12 months in the country.

179. Likewise, decision No. 1143-E/2017⁴³ provides for the status of Haitian citizens to be regularized on humanitarian grounds, in light of the impact and consequences of the series of natural disasters that have occurred in the Republic of Haiti. As a result, 490 Haitian citizens have gained access to residency in Argentina.

180. Under the assistance programme for Venezuelan migrants governed by decisions No. 594/2018⁴⁴ and No. 520/2019⁴⁵, a series of waivers have been granted to Venezuelan nationals with respect to documents required for processing residency applications, in light of the unique situation in their country. Decisions were reached on more than 160,000 requests from Venezuelan citizens between 2017 and 2019, inclusive.

181. Furthermore, the National Migration Directorate has worked to open new immigration offices and branches in highly populated locations, mainly in the metropolitan area of the Province of Buenos Aires, making it easier for more migrants to reach them for the processing of their residency applications.

182. In addition, in December 2018, it became possible for foreigners to submit their residency applications online through the web-enabled platform RADEX (a digital residency application system for foreign nationals). However, the new leadership of the National Migration Directorate has reported that it is in the process of perfecting the system, as it detected various aspects of the platform’s development that made it difficult for tens of thousands of migrants to regularize their immigration status, with significant volumes of applications not entering administrative channels and with individuals with an irregular immigration status becoming buried in the process.

183. It is expected that all of these migrants will soon have their status regularized by means of provisional residency certificates that will allow them to enter and leave the country, access public services and work as salaried employees until a decision is reached on their applications.

184. Also of relevance to the inclusion of migrants was the opening of the first Advice Centre for Migrants and Refugees in the Autonomous City of Buenos Aires in December 2017 and the opening of an Advice Centre in the city of Rosario, Province of Santa Fe, in

⁴¹ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/235000-239999/236705/texact.htm>.

⁴² <http://servicios.infoleg.gob.ar/infolegInternet/anexos/265000-269999/265236/texact.htm>.

⁴³ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/270000-274999/272890/norma.htm>.

⁴⁴ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/305000-309999/306895/norma.htm>.

⁴⁵ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/315000-319999/319449/norma.htm>.

October 2019. The Centres are coordinated jointly by the National Migration Directorate and other government bodies and receive support from international organizations.

185. The Centres are venues where all migrant and refugee groups and communities can gather and receive support. The goal of the Centres is to create a space where migrants can be assisted in the process of social integration through actions that bring attention to and promote their rights, and to offer solutions to any issues that may arise with respect to their access to those rights.

186. In addition, the National Migration Directorate takes part in the national programme “The Government in Your Neighbourhood”, which brings together State services in a single location in various neighbourhoods, in order to promote and publicize migrants’ rights. Through this programme, the Directorate provides advice and assistance to migrants on all matters relating to immigration and the exercise of their rights.

187. With regard to the deprivation of liberty of migrants with irregular status, it should be made clear that the National Migration Directorate does not make arrests, which are carried out on the instruction of a court in connection with the commission of an offence, and only has the power to place individuals in administrative detention. Such detention is a measure ordered by a court at the request of the Directorate and is the last step prior to an expulsion.

188. Under the Argentine Migration Act, there are two different sets of circumstances in which the National Migration Directorate can carry out administrative expulsion orders: prior to the completion of a criminal sentence in the situations set out in article 64 and in the event of an immigration violation falling under articles 29, 62 or 61.

189. The first set of circumstances applies to foreigners serving sentences for matters brought before the criminal courts. In other words, the foreigner is in custody because of a criminal prosecution completely unrelated to immigration matters and is there to serve a sentence. It is the court of competent jurisdiction that must authorize the execution of the measure of expulsion once the administrative decision is final, thereby ruling that the foreigner may no longer stay in the country.

190. It is only under the second set of circumstances provided for under the law that the National Migration Directorate has the power to place individuals in administrative detention. In such cases, the Directorate orders an expulsion and requests authorization from the federal courts to place the foreigner in administrative detention for the sole purpose of carrying out the previously issued expulsion order. The judge reviews the legality of the administrative proceedings and issues a ruling ordering that the foreigner be detained so that the expulsion may be carried out. The time frames for carrying out the expulsion are set out in the Migration Act. With regard to the purpose of requesting an order to place an individual in administrative detention, it should be noted that in these cases the deprivation of liberty is a temporary precautionary measure for the purposes of carrying out an expulsion in accordance with article 70 of the Act; the foreigners are housed separately from prisoners of all types and are able to communicate with their families, lawyers and consular representatives.

191. Once the administrative authority orders an expulsion, the foreigner may file an appeal with the National Director of Migration. If the Director upholds the expulsion, the foreigner may appeal to the courts.

192. The sole purpose of placing foreigners who violate immigration law in administrative detention is to enforce an expulsion order and the detention is at all times subject to due process guarantees.

193. Foreign citizens who commit a crime are, like Argentine nationals, held in custody in federal or provincial prisons, as applicable.

194. In conclusion, it should be noted that under no circumstances may the arrest of a foreigner be tied to his or her irregular immigration status.

Q. Multiple forms of discrimination (para. 36)

195. In December 2019, President Alberto Fernández decided to establish the Ministry for Women, Gender and Diversity in order to fulfil the country’s commitments to women

and diversity. To help it achieve that goal, the Ministry has a Secretariat for Equality and Diversity Policies and a Secretariat for Policies against Gender-based Violence.

196. The responsibilities of the Secretariat for Equality and Diversity Policies include the formulation and implementation of gender-responsive policies promoting equal opportunity and rights in the areas of education, health, labour, politics, rural and urban issues, and disability. More specifically, the Office of the Under-Secretary for Diversity runs a Programme for Comprehensive Sexual and Gender Diversity Policies, which places special emphasis on preventing and addressing institutional violence against women and lesbian, gay, bisexual, transgender and intersex persons.

197. The Secretariat also includes an Under-Secretary for Special Programmes against Gender-based Violence, whose office intends to deal specifically with gender-based violence against migrants through a Coordinating Office for Addressing Gender-based Violence against Migrants that focuses primarily on carrying out strategic actions to prevent such violence and to reinforce the comprehensive approach taken to providing assistance and support to migrants, refugees and people of African descent experiencing gender-based violence.

198. The office of the same Under-Secretary also has a Coordinating Office for Addressing Gender-Based Violence against Members of Indigenous Communities, whose main function is to implement strategic actions to prevent and strengthen the comprehensive approach taken to assist members of indigenous communities who are experiencing gender-based violence, with a special focus on language barriers. There are also plans to coordinate actions to develop a federal network of spaces where comprehensive support can be provided to members of indigenous communities who are victims of gender-based violence, with multi-agency involvement.

199. Finally, it is worth noting that a series of cross-cutting policies have been formulated with the aim of achieving the goals set by the new Ministry. These policies cover the formation and operation of a Federal Council composed of senior officials from all provinces of the country with expertise in gender issues and aimed at ensuring that policies formulated at the national level have a concrete impact on the ground.

200. Likewise, with respect to mainstreaming a gender perspective in policies for combating discrimination against migrants, people of African descent and indigenous peoples, the National Migration Directorate provided training to interdisciplinary teams on how to apply a gender and human rights perspective in social interventions involving migrants.

201. In April 2018, an inter-institutional coordinating committee was established in order to more effectively develop programmes and implement humanitarian policies that encompass the entire migrant community and focus on the most vulnerable groups, such as women and children – thereby creating open and fluid channels of communication among the parties – with a view to promoting and coordinating the objectives set forth. One of its main goals is to strengthen institutional relations in the promotion of actions aimed at preventing and eradicating the crimes of trafficking in persons and human smuggling and all types of acts of discrimination, xenophobia, racism and gender-based violence.

IV. Other recommendations

A. Ratification of other treaties (para. 37)

202. On 5 April 2019, bill No. 1496-D-2019, approving the Inter-American Convention Against All Forms of Discrimination and Intolerance, was submitted to the Chamber of Deputies. The bill is currently before Congress.

B. Amendment to article 8 of the Convention (para. 38)

203. The Ministry of Foreign Affairs and Worship will initiate proceedings to bring before Congress a bill to ratify the amendment to article 8 of the Convention.

C. Durban Declaration and Programme of Action (para. 39)

204. As revealed by the measures mentioned in this report, the Argentine State is taking various steps to fight racism, racial discrimination, xenophobia and related intolerance. Please therefore refer to the answers above for information on the progress made in following up on this observation.

D. International Decade for People of African Descent (para. 40)

205. As reported, a National Programme for the Implementation of the International Decade for People of African Descent has been created within the Secretariat for Human Rights under resolution No. 2019-1055-APN-MJ⁴⁶ of the Ministry of Justice and Human Rights. The tasks set out by the National Executive in Decree No. 658/17⁴⁷ are to be carried out under the Programme.

206. One of the functions of the Programme is to prepare a national strategic plan, in consultation with the other administrative units of the National Executive and in coordination with the programme of activities for the implementation of the International Decade for People of African Descent adopted under resolution 69/16 of the General Assembly of the United Nations and the Plan of Action for the Decade for Persons of African Descent in the Americas (2016–2025) adopted under resolution AG/RES.2891 of the General Assembly of the Organization of American States.

**E. Dissemination of reports and concluding observations (para. 41);
Consultations with civil society organizations (para. 42)**

207. It should be made clear that, in view of the recent change of government in the Argentine Republic and in order to comply fully with the deadlines set by the Committee, it was not possible on this occasion to hold consultations with civil society organizations prior to submitting the present report.

208. Nevertheless, the new administration has undertaken to create opportunities for the participation of civil society in the process of preparing periodic reports and in the dissemination of the observations made to the Argentine State.

209. Please also be advised that Argentina is in the process of implementing the System for Monitoring International Human Rights Recommendations in order to strengthen the national mechanism currently in place for submitting reports and following up on recommendations.

210. This system consists of an online platform accessible to the public that allows for the observations made by the various mechanisms of the universal system of protection to be disseminated and also makes it possible to monitor the actions taken by the State to comply with their recommendations.

211. The System is expected to facilitate the coordination of work among the various government agencies, serving as a basis for the preparation of country reports, and to make it possible to reconcile recommendations made under the universal system of protection with the Sustainable Development Goals.

212. Furthermore, in order to ensure citizen participation in human rights matters and expand access to public information, the System's platform allows for the participation of civil society organizations.

⁴⁶ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/325000-329999/329976/norma.htm>.

⁴⁷ <http://servicios.infoleg.gob.ar/infolegInternet/anexos/275000-279999/278290/norma.htm>.

F. Follow-up to concluding observations (para. 43)

213. In document CERD/C/ARG/CO/21-23/Add.1, dated 11 December 2017, the Argentine State submitted in a timely manner its report on the follow-up to the concluding observations contained in paragraphs 15, 24 and 26 (b) and (c).
