

ARGENTINA

Although the military's position has become less tolerant, some judges took steps to bring to justice persons responsible for human rights violations that occurred during the rule of the military juntas. The judiciary from Buenos Aires province found itself under political pressure from the provincial executive in the context of increasing criminality. Following the same trend, new laws granting enhanced powers to the police were adopted in order to combat crime. The judiciary has not been able to exercise a proper judicial control over cases of police brutality. The Law of Defence of Democracy, which denies the right to appeal, continued to be in force. The Federal Prosecution has adopted additional elements of an adversary system.

BACKGROUND

The Federal Constitution, most recently amended in 1994, provides for a constitutional, representative and federal republic. Each of the 23 Argentinean provinces and the capital Buenos Aires has its own constitution. The President, who is elected by popular vote for a four-year term and allowed to stand for re-election only for one additional period, exercises the Federal Executive power. The President is chief of State, head of the Government and responsible for administration.

A bicameral Congress exercises the federal legislative power. The legislature has been in transition since the adoption of a 1994 constitutional amendment. The Chamber of Deputies is constituted of 257 deputies, who are elected for a renewable four-year term. Half of the Chamber of Deputies is replaced every two years. The 72-seat Senate is elected for a six-year term. Every two years one third of the Senate is renewed. Those elected to the Senate in the 2001 were assigned at random to serve either a two-year, four-year, or full six-year-term, beginning a rotating cycle under which one third of the body is renewed every two years. The administration of justice is reserved to a court system.

President Fernando de la Rúa assumed power in December 1999, leading the Alliance (*Alianza*), a centre-left coalition between the Radical Civic Union (UCR) and the Front for a Country with Solidarity (FREPASO) parties. In October 2000, the Vice-president, Carlos Alvarez, resigned following differences with President de la Rúa over how to handle a Senate bribery scandal, which allegedly involved some of the members of the cabinet. However, his FREPASO party remained loyal to the Alliance. On 29 December 2000, a federal judge issued a lack of merit ruling related to the charges against the senators. In October 2001, Congressional elections were held in Argentina. The Peronist opposition party became the largest party both in the Senate and in the Chamber of Deputies. The new composition in the Federal Congress would possibly reduce the Government's power to carry out further economic reforms.

The Argentinean economy continued a three-year slump, during which unemployment has risen to 15 per cent. The Government undertook efforts to assure investors it could make payments on its US\$ 130 billion debt. In June 2001, President de la Rúa presented a plan, the second since December 1999, for cutting spending and increasing taxes in order to reduce the country's budget deficit. Despite initial opposition to reductions in state pensions and salaries from the Peronist party, the reforms were approved on 30 July 2001. Large popular demonstrations throughout the

country ensued and threats of debt default, devaluation and flight of capital from the country persisted.

HUMAN RIGHTS BACKGROUND

On 8 February 2001, Argentina ratified the treaty for an International Criminal Court.

Extrajudicial killings, torture and disappearances carried out by the police were reported throughout the period, some of these resulting in the death of the victims. Cases of killings and disappearances involving police officers were also reported. In August 2000, Guillermo David San Martín, President of the Buenos Aires provincial Supreme Court, asked the Minister of Security to take measures to stop the torture of minors in police stations. According to a report by the government adviser for minors in San Isidro, allegations of beatings of minors in police stations doubled in the first seven months of 2000, reaching a total of 159 cases.

Police used violence against demonstrators on several occasions during this period. On 19 April 2000, members of the Federal Police reportedly attacked a demonstration against labour reforms, wounding 35 demonstrators. In 2000, in Salta and Corrientes provinces, provincial police efforts to break up demonstrations resulted in the death of three demonstrators. A number of attacks and threats were made against journalists, especially in the Santiago del Estero Province. A fake bomb was placed under the car of a journalist of the periodical *El Liberal*, which had accused the provincial government of Carlos Juárez (Peronist - currently ruling the province for a consecutive fifth term) of trying to ruin it. The newspaper *La Voz del Interior* also reported that his correspondent in Santiago del Estero received threats indicating that he should desist from criticizing the Governor.

In September 2001, fifteen former police officers and five others went on trial, accused of abetting the 1994 bombing of the AMIA, an Israeli-Argentinean association, in Buenos Aires, which claimed 86 lives. The suspects are accused of supplying the stolen car used in the attack and face a list of other charges, although none of the suspects is suspected of direct involvement in the bombing. Those facing the most serious charges could get a maximum of 25 years if convicted. Heading the list of defendants is Juan José Ribelli, a former Buenos Aires provincial police chief, who is accused of directing a remarkably profitable band of police officers.

Recommendations of the Human Rights Committee

In October 2000, the UN Human Rights Committee (HRC) examined Argentina's third periodic report on its implementation of the International Covenant on Civil and Political Rights. CCPR. The HRC highlighted, among others, as subjects of concern:

- The uncertainty over the status of Covenant rights in domestic law. The Committee recommended clarification on the State Party's statement that the Covenants are applied in a manner that is "complementary" to the Constitution.
- The fact that many persons who are covered by the amnesty laws continue to serve in the military or in public service, with some having enjoyed promotions.

- Severe overcrowding, poor quality of basic necessities and services, including food, clothing and medical care, and abuse of authority render prison conditions an impediment to meeting the Covenant's standards.
- Allegations of practice of torture and ill treatment by police officials and the fact that this phenomenon is not adequately addressed by the State.
- Attacks on human rights defenders, judges, complainants, participants in peaceful demonstrations and members of the media.

Impunity

Beginning in 1973, a progressive deterioration of the rule of law took place with the fight against violent guerrilla organisations operating at the time serving as the pretext for the decline. State policies involving gross, systematic and widespread human rights violations were conducted through criminal actions by the organisation known as AAA (the Argentinean Anti-Communist Alliance). Targets of these actions included dissident labour unions and universities. A number of repressive laws were adopted with many State functions being effectively ceded to the armed forces. This process culminated in the *coup d'etat* of 24 March 1976. During the seven years that followed the coup, the ruling military junta was responsible for a massive number of human rights violations, which, according to some legal analysts, may have attained the level of crimes against humanity. Included among the abuses were some 8,960 cases of disappearances. Alleged members of "subversive organisations", their sympathisers, associates, relatives or anyone perceived as a potential opponent of the Government were the targets of the military junta's repressive policies. Congress was dissolved, the state of siege imposed by the previous government was renewed, legal guarantees were disrespected and formal arrests were replaced by abductions.

In 1983, the state of siege was lifted and a civilian government, headed by President Raúl Alfonsín, was installed through free elections. A number of high-level military officials, including members of the military junta, were criminally prosecuted and convicted during the 1980's for their abuses. However, most of military human rights violators were protected under broad amnesty laws adopted between 1986 and 1987, namely, the Full Stop Law (Ley 23.492) and the Due Obedience Law (Ley 23.521). A number of pardons issued by then-President Menem in 1989 and 1990 freed those who had been convicted. Although the "Due Obedience" and "Full Stop" laws have been repealed by the Parliament, the effects of the legislation have not been annulled. Investigations into amnesty-covered human rights abuses may be carried out (Truth Trials), but can not lead to criminal convictions. The so-called "Truth Trials" (*jucios por la verdad*), carried out since 1995, have as a purpose to provide relatives of victims with the truth of what happened to their family members.

Despite the amnesty laws, the Argentinean judiciary has called to account eleven former military officials, including the President of the first military junta Jorge Rafael Videla, involved in cases of disappearance of children, a crime explicitly excluded from the amnesty laws. In 2000, General (retd.) Santiago Riveros was placed under house arrest, having been accused of involvement in the theft of babies born in the Campo de Mayo military hospital.

In July 2001, Jorge Rafael Videla became the first former Latin American leader to be indicted for participation in Operation Condor, the joint repressive missions carried out by the Southern Cone dictatorships in the 1970's and 1980's. Videla is accused of participating in an illicit association created to kidnap, torture, assassinate and disappear individuals and commit other related crimes.

The indictment also includes an embargo of one million dollars against Videla. The former dictator's attorneys maintain that the sentence he received in 1985 immunises him from undergoing a new trial for the crimes committed by his Government. Argentine federal judge, Rodolfo Canicoba Corral posited as legal grounds in moving forward on the case the theory that "forced disappearance" is a crime that is ongoing until the fate of the victim is known. As such, it is not included among the crimes falling under the amnesty laws in Argentina. Although the personal situation of Videla may not change if he were to be found guilty in this case, the jurisprudence establishes a precedent that may be used in similar cases involving military officers who still have not been judged.

Taking into consideration that the crimes committed during the military juntas constitute crimes against humanity and that these offences also affected foreigners, several countries have started proceedings in order to bring to account military personnel allegedly involved in these crimes. Spanish, Italian, French, Swedish and German courts have issued international warrants of arrests against several former and current army officers and have asked the Argentinean Government to allow the extradition of these persons. The Government has repeatedly refused to carry out any extradition, arguing that these persons have already been judged (*ne bis in idem*) and on the grounds of territoriality.

An Argentinean judge requested that former Chilean military leader Augusto Pinochet be extradited to face investigations regarding his alleged participation in the assassination of Gen. Carlos Prats and his wife, who were killed by a car bomb in Buenos Aires on 30 September 1974. Chilean General Enrique Arancibia was sentenced to life imprisonment for the murder.

Legal Challenge of Amnesty Laws

On 6 March 2001, Federal Judge, Gabriel Cavallo, took an important step towards stemming impunity for crimes against humanity committed during the military regime. Judge Cavallo was in charge of the case involving an eight-month girl, Claudia Poblete, who in 1978 was allegedly kidnapped by former police agents together with her parents, Gertrúdis Hlaczik and Jose Poblete. Judge Cavallo declared the "Due Obedience" and "Full Stop" laws to be "unconstitutional and invalid" and proceeded to prosecute the defendants both for kidnapping the child and for the disappearance and torture of her parents. The Federal judge decided not to apply the amnesty law by exercising the constitutional control powers that judges have within the Argentinean legal system when dealing with cases involving constitutional rights. Although Judge Cavallo's decision only directly affects this particular case, it represents an important judicial precedent in the combat against impunity. On November 9, 2001, the three-judge Federal Criminal Court (*Sala II en lo Criminal y Correccional Federal*), unanimously confirmed Cavallo's decision both in regard to the charges, which the court considered to be crimes against humanity, and with regard to the amnesty laws, which it also regarded as unconstitutional and without legal effect. As the present report was being finalised, the defendants were expected to appeal to the Criminal Appellate Court, but the Supreme Court will eventually decide conclusively on the validity of the amnesty laws. If the Supreme Court confirms the nullification of the amnesty laws, it will both invalidate the application of the law in the concerned case and also overturn rulings issued while the laws were in force.

The ICJ, together with Human Rights Watch and Amnesty International submitted to the judge of the Federal Criminal Court an *amicus curiae* (friend of the Court) on the incompatibility of the amnesty laws with international law and, particularly, with Argentina's obligation to prosecute and convict those responsible for serious human rights violations. The *amicus curiae* concluded that the full stop and the due obedience laws constitute a violation of the international obligation of

Argentina to guarantee effective remedies for the victims of human rights violations and their relatives; that the judicial rulings based on these laws are not valid and cannot serve as arguments for impeding prosecutions of these crimes; that the derogation of the mentioned laws by the Argentinean Parliament does not comply with international law; that Argentina cannot use domestic law in order to avoid compliance with international obligations, since to do so would violate the *pacta sunt servanda* principle; and that the national tribunals have the obligation not only to abstain from applying the amnesty laws, but also to annul them in order to fulfil Argentinean international human rights obligations.

In October 2001, Judge Claudio Bonadio became the second magistrate to challenge the country's amnesty laws. Judge Bonadio charged a former head of the Argentine Navy with stealing property from persons who disappeared during the military regime.

Army's Attempts to Stop Judicial Proceedings for Past Human Rights Violations

Changes in the high command of the armed forces have meant a setback regarding the attitude of the military toward human rights cases for past human rights violations. Regarding the "truth trials", the army has exercised pressure on the Government to eliminate them. In the context of these trials, many military officers have been asked to declare under oath. Due to the resistance of some army members to declare and because some testimonies have been clearly inaccurate, some army officers have been detained. The Secretary General of the Army, General Eduardo Alonso, visited the detained military officers in several provinces in order to express the army's support for them.

Another strategy of the armed forces has been to try to transfer jurisdiction over cases of disappearance of children to the military tribunals. In August 2000, the Supreme Court refused the Supreme Council of the Armed Forces' petition to transfer jurisdiction over the Santiago Riveros case, mentioned above, to the military tribunals. Furthermore, there were attempts from the Buenos Aires city judiciary to hold jurisdiction over "truth trials", apparently with the army's backing. In November 1999, in the context of a case before the Inter-American Court of Human Rights (IACHR), the Argentinean Government had agreed to guarantee the "right to the truth", to legally recognise it and to maintain the jurisdiction of federal chambers in such cases and of federal first instance judges in cases of disappearance of children. Therefore, the Army's attempts to transfer jurisdiction in these cases contravene international obligations of Argentina.

Finally, there have been attempts to establish a roundtable, *mesa de diálogo*, as an alternative to justice. Proposals for a *mesa de diálogo* were inspired by a similar body created in Chile. The Chilean roundtable is the result of an agreement between the Chilean Government and the armed forces in which the latter committed themselves to collaborate in finding information on the whereabouts of the disappeared. Anonymity was ensured to those who provided information.

JUDICIARY

The Constitution provides for an independent judiciary. However, its processes are sometimes subject to political influence and inefficiencies. Delays, backlogs, changes of judges and an inadequate administrative support were reported during the period under review.

Structure

The judiciary is organised as a federal and provincial system. Provincial constitutions must comply with the principles and guarantees provided in the federal Constitution. The federal judiciary is composed of a Supreme Court, which exercises jurisdiction throughout the territory, and appeals chambers that have jurisdiction over judicial districts. There are also judges of first instance for criminal and civil and other matters.

Each province of the Federation organises its judiciary in accordance with its own constitution. The structure of the provincial judiciaries comprises a High Court, as the highest court in the province, and lower courts. These have jurisdiction over civil, criminal, labour and fiscal matters reserved for the provinces. In several provinces, its judiciaries are subject to the political and economic influence of powerful local families and political groups. An example is San Luis province (see *Attacks on Justice 2000*, in which local institutions, including the judiciary, collapsed. In Corrientes, the federal government had to suspend local institutions, impose direct rule and appoint an intervening committee. The head of the committee temporarily suspended the security of tenure of all provincial judges and ordered a new process of evaluation of the High Tribunal of the Province. In December 2000, the President was granted authorization by the Congress to continue ruling Corrientes directly and to suspend the three branches of power in the province. Finally, in the October and November 2001 elections, new local authorities were elected and the normal institutional life of the province was restored.

In Santiago de Estero province, the lack of independence of the judiciary, due to the prolonged hegemony of a single political group, is one of the main sources for its poor human rights record.

In Buenos Aires province, the executive power attempted to act on several occasions against the independence of the judiciary, in the context of the high criminality the province suffers. Press statements, from the Governor, Carlos Ruckauf, accused the judiciary of "having a weak attitude with regard to criminality", and "of being in favour of freeing murderers". Furthermore, judges who contravened the provincial executive's interpretation criteria were threatened with facing eventual judgements against them. The Association of Magistrates of Buenos Aires labelled the executive's statements as "an inadmissible interference in the functions of the Supreme Court of Buenos Aires Province".

Office of the Public Prosecutor and of the Public Defender (*Ministerio Público*)

The Office of the Public Prosecutor (*Ministerio Público Fiscal*) and the Office of the Public Defender (*Ministerio Público de la Defensa*) are part of the *Ministerio Público*. The Public Ministry is an independent organ with functional and financial autonomy. The Public Prosecutor's office has the power to start criminal investigations and to participate in the prosecution of offenders. However, its powers are restricted by a code of criminal procedure that follows an inquisitorial system of criminal justice, limiting the role of the Public Prosecutor and giving the investigating judge (*juez de instrucción*) the control of the investigation stage. Article 196 of the Criminal Procedure Code provides that the investigating judge may delegate his function to the prosecutor

Several legal reforms occurred aimed at implementing a more adversary system. Law 24.826 establishes that in cases in which an individual is captured *in flagrante*, and where in principle it is not mandatory to apply preventive detention measures, the prosecutor shall be in charge of the investigation (amending article 353 bis of the Criminal Procedural Code). Law 25.409 provides that prosecutors shall be in charge of the investigation of cases in which the author is unknown (Modifying Art 196 *bis*, *ter* and *quáter* of the Criminal Procedural Code).

The Office of the Public Prosecutor is composed of prosecutors who function before the different level courts. The national executive, following ratification by two thirds of the Senate, appoints the Attorney General. Other General Prosecutors are appointed by the President and ratified by the Senate from a list of three candidates presented by the Attorney General. The Attorney General's list is integrated through a public contest. The Office of the Public Defender has the duty to exercise public defence and to carry out all actions directed toward defending and protecting human rights. It is headed by the Public Defender. The Public Defender and the officers of this agency are appointed in the same way as its counterparts in the Office of the Public Prosecutor.

Members of the Public ministry enjoy security of tenure while on good behaviour and as long as the officer is less than 75 years old. Removal procedures against the Attorney General and the Public Defender must comply with articles 53 and 59 of the Constitution. Other officers may only be removed by a Judgement Tribunal (*Tribunal de Enjuiciamiento*) due to bad performance, grave negligence and for intentionally committing crimes as stipulated under Law 24.946.

Administration

The 1994 constitutional amendments provided for the establishment of the Council of the Magistracy (*Consejo de la Magistratura*). In 1999, the implementing legislation passed and in the same year the Council began its work. The Council of the Magistracy is composed of 20 members elected by different constituencies: the judiciary, Congress, lawyers associations, the executive branch and the academic and scientific community. They serve for a period of four years, renewable only once. The Council has authority to appoint the Administrator-General of the judiciary, to initiate investigations and to bring judges before an impeachment jury (*jurado de enjuiciamiento*), to organise and oversee the education of the judiciary, to introduce training programmes and to select candidates for federal judgeships. The Council is divided into four sub-committees with four distinct functions: selection and training of magistrates, discipline, accusation and administration.

The Council of the Magistracy is in charge of the resources of the judiciary. A constitutional provision guarantees that judges will receive a salary as compensation for their work, which cannot be reduced while they remain in their posts. The judiciary submits a budget that is sent to parliament for final approval after having been examined by the executive.

Appointment and Security of Tenure

The President has the power to appoint the justices of the Supreme Court with the consent of two thirds of the Senate. The President also appoints judges for the lower federal courts following the submission of a list of candidates by the Council of the Magistracy. All judges enjoy life tenure until the age of retirement. In 1999, The Council started to select candidates for judicial vacancies in several parts of the country. Nonetheless, it still does not function fully; the number of judicial

vacancies has increased, although some of the vacancies for first and second instance judges have been filled during the second half of 2001.

Article 13 of Law 24.937 of the Council of the Magistracy elaborates a long procedure for the selection of candidates for judgeships other than Supreme Court justice positions, including pre-selection by a jury composed of judges, lawyers and law professors, and a favourable vote by the whole council before the candidate is included in the list to be submitted to the President.

Removal Procedures

The removal of Supreme Court justices is carried out by Congress through a political trial (*Juicio Político*). The Chamber of Deputies has the power to accuse Supreme Court justices before the Senate on the grounds of having wrongly performed their functions or having committed a crime. The Senate decides on the removal of the implicated justice by a two-thirds majority (Article 59 of the Constitution). Political trials are characterised as being extremely slow.

The Council of the Magistracy has the power to initiate investigations as well as to formulate charges against judges of the lower courts before the impeachment jury (*jurado de enjuiciamiento*). The removal is decided by this jury, which is composed of representatives of the judiciary, the legislature and lawyers associations, after a procedure that affords due process to and respects the right of defence of the accused judge (Article 25 of Law 24.937). The final decision of the jury, however, cannot be challenged. Only a request to the jury to clarify its decision is permitted (Article 27). However, proceedings against judges of lower courts that started before the 1999 establishment of the Council are still carried out by Congress through a political trial (*Juicio político*), which, as mentioned above, distinguished for being slow.

During the period under review, a number of federal judges were subjected to disciplinary proceedings and some of these were suspended or dismissed from their posts, mostly on charges of misconduct. Most of these proceedings were perceived as being in compliance with constitutional provisions.

Legal Reforms to fight Criminality

During the period under review, the Government passed legislation with the alleged purpose of fighting the worrying criminality rates Argentina faces. The new laws, directed at hardening the State's position with regard to criminality, have been criticised for being an inappropriate response to a legitimate public concern.

Law 24.390, known as the "two for one" law, was modified during the period under review. The modified law was a response to the grave problem the Argentinean judiciary faced regarding the length of judicial proceedings and the fact that the prisons were full of persons who had not been sentenced. Law 24.390 provided that preventive detention should not be longer than two years, and that only exceptionally could it be prolonged for one additional year. Furthermore, the "two for one" law established compensation for those that had suffered preventive detention for more time than provided for by law. For these persons every extra day spent in preventive detention would be counted double at the moment of computing the prison term, if the defendant were found guilty. This was supposed to be a provisional and exceptional measure, however it became the general rule, as pre-trial detention continued to constitute a significant problem in the Argentinean criminal

justice system. The only consequence was that sentences became shorter. As a response to the common criminality the country suffers, Law 25.390 was passed to modify Law 24.390 and eliminate the "two for one" system. The new law continued to establish two years as the maximal pre-trial detention term, however it did not provide for any consequence in case the term had not been respected.

Law 25.434 introduced substantial changes in the Code of Criminal Procedures CPPN (*Código de Procedimiento Penal Nacional*). It was also a response to the concerns arising from the criminality Argentina faces. The new law modifies article 189 of the CPPN by giving powers to police officers to ask suspects caught in flagrante for information about relevant circumstances in order to "direct the immediate continuation of the investigations" without following the formalities that are necessary in any declaration given to a judge. Although the new law establishes that these declarations will not have validity at any trial, it is possible that these declarations may be considered in the proceedings through the testimonies police officers. Law 25.434 also allows the police to carry out searches of persons without judicial warrants in any case, and not only in urgent cases, as was provided for in the former system. The same was provided regarding police powers to undertake searches of cars. Law 25.434 also broadened the power of the police to amplify or change the purpose of the search of a house if there is evidence that a crime other than the one that originated the search was committed. Several Argentinean NGOs have considered the new laws to be unconstitutional and in breach of the international human rights obligations of Argentina.

Inefficient Judicial Control over Police Irregularities.

Although there are cases in which judges and prosecutors exercise a proper judicial control, judicial investigations of brutalities committed by the police are commonly considered to be at least unsatisfactory.

Two patterns have been identified in the inefficiency of judicial control. The first involves cases in which the judiciary does not investigate evidence against police officers. Judicial officers once confronted with a case in which a person has been injured or killed as a consequence of police actions, do not carry out investigations directed toward establishing the probable responsibility of police officers. On the contrary, the police's version of the facts many times is considered to be enough. Private investigations, searches undertaken by relatives and even contradictions in the statements of the police have all highlighted the fact that probable police brutality has not been properly investigated.

Another pattern which highlights the inefficient control over police irregularities, is that judicial officers do not investigate actions by the police directed toward covering up irregularities. There have been several cases in which police officers, after having committed a crime, carry out serious irregularities and unlawful acts with the purpose of covering up their own crimes. These acts have become clear once the proceedings have started and, many times such acts are not properly investigated and punished by judges. Death threats against lawyers of the victims are one of the most common modalities of police irregularities and, as with other irregularities, generally have not been properly addressed by the judiciary.

LAW OF DEFENCE OF DEMOCRACY (LAW 23.077) AND THE DENIAL OF THE RIGHT TO APPEAL

Argentina continued to disregard its international obligations under the Inter-American Convention on Human Rights and the International Covenant on Civil and Political Rights. In its Report No 55/97, the Inter-American Commission of Human Rights (IACHR) recommended that Argentina correct the incompatibility existing between the Law of Defence of Democracy and the country's obligation under the Convention to provide the judicial guarantee of the right to appeal for persons tried under Law. 23.077. This law provides that trials should start in a second instance court, thereby impeding the fulfilment of the right to appeal. The IACHR issued this recommendation as part of its ruling in a case involving members of the "All for the Fatherland Movement" - MPT (*Movimiento Todos por la Patria*). MPT members were judged under the aforementioned law following events of 1989 in which a group of them carried out an armed attack against military barracks of the Third Mechanised Infantry Regiment in La Tablada, Buenos Aires Province. The persons involved in these acts received sentences from ten years to life imprisonment.

During the period under review, the legislature carried out attempts to amend the law and recognise the right to appeal of the Tablada prisoners. The most important attempt was the bill presented to the Chamber of Deputies in August 2000, however these efforts have not been successful and at the moment the law continues to be in force. Following a presidential decree on commutation of sentences, most of the prisoners involved have been released on parole or freed permanently.

CASES

Carlos Varela, Diego Lavado and Alejandro Acosta {lawyers}: On 31 October 2000, the three lawyers allegedly faced harassment for having taken on two cases in which police officers were accused of killing persons in their custody. In June 2000, defamatory statements about the lawyers were distributed in the press. In August 2000, the three received threatening phone calls and on 24 October 2000, their offices were broken into and files stolen. An anonymous phone call later claimed that Mendoza police investigators were responsible for entering the office. Criminal investigations started to identify the perpetrators of these acts and the police pledged to patrol the area at night and during weekends in order to provide better security.

Matilde Bruera {lawyer}: Ms. Bruera is a lawyer in Rosario (Santa Fe province) engaged in the fight to end impunity for persons guilty of police brutality and of serious violations committed during the military junta. In July 2000, Ms. Bruera received a parcel in her office, inside of which was a hollowed-out book containing a 450-gram block of explosives, a battery, and cables. The parcel did not include a detonator, but carried the message "rest in peace". During the investigation, the police discovered the phone number from which the death threats had come, but it turned out to be that of Mr. Daniel Luna, a colleague of Ms. Bruera. After denouncing the manoeuvre to the investigating judge, Mr. Luna received a package on 17 November 2000, with the sender's name identified as that of Ms. Bruera. Mr. Luna called the police and a detonator and an incendiary device were found, which could have wounded him very seriously. On 7 November 2000, Ms. Bruera also received a letter saying: "Bruera, we are going to kill you with a bullet to the head". In December 2000, Ms Bruera demanded protection from the Argentinean authorities.

Ms. Bruera ultimately denounced the campaign of threats directed at her and her colleagues, in particular death threats issued against lawyers Juan Robert Coria, Lindolfo Bertinat, Victor Garavelli, Juan Lewis and María Eugenia Caggiano, who heads the Argentine Workers' Centre (CTA) in Rosario.

María Romilda Servini de Cubría {judge}. Ms. Servini and her judicial secretary allegedly received death threats in May 2001. Apparently, the threats were related to the investigations carried out by these judicial officers regarding the kidnapping of children during the Argentine “dirty war” (1976-1983). Ms. Servini ordered the preventive detention of former navy Captain, Alfredo Astíz, in preparation for his eventual extradition to Italy. An Italian Court requested the detention of Astíz and probably will ask for his extradition for the alleged kidnapping and disappearance of three persons of Italian ancestry disappeared in Argentina in 1976 and 1977 respectively. In January Astíz publicly admitted his participation in the killing and kidnapping of people regarded as enemies of the military regime.

Mariano Mansilla {lawyer}: Mr. Mansilla is a founding member of the Argentine Committee for Legal Action. In May 2001, the High Court of Neuquén province took a decision to request the local Bar Association to sanction Mr. Mansilla. These sanctions will not allow Mr. Mansilla to exercise his profession. Harassment against Mr. Mansilla allegedly started the day after he came back from Geneva (Switzerland) where he denounced the alleged Argentine State policy of discrimination against Mapuches and immigrants. Once he returned, Mr. Mansilla gave an interview to a newspaper in which he expressed his opinion concerning cases he had handled and criticised the Government and the Neuquén judicial authorities. It is feared that the Court's decision was in retaliation against the opinion expressed by Mr. Mansilla in the newspaper.

María Dolores Gómez {Public Defender}: Ms. Gómez works as a public defender in the Judicial Department of San Isidro, in Buenos Aires province. As part as discharging her functions, she reported that prisoners were continuously beaten and put in isolation cells, known as “buzones”. These are very small rooms that many times lack any kind of light. The conditions of these cells violated basic human rights. Public Defender Gómez denounced this situation and filed an habeas corpus petition, which resulted in the closing of these cells and the transfer of the prisoners located there to other locations. Later, Ms. Gómez continued to act on behalf of prisoners who suffered torture in prison.

On 30 March 2001, two men attacked Ms. Gómez. She was punched twice, though nothing was stolen from her. Between December 2000 and February 2001, Ms. Gómez received anonymous phone calls, the person who called always hanging up as soon as the phone was answered. On 14 May 2001, Ms. Gómez received information from a prisoner, Ramón Solari, who told her that the chief of Unit 29 and an official of Sierra Chica (another prison) had intentions of doing something against her. According to Mr. Solari, he had been in Unit 29 and had heard what the chief of this unit, Mr. Barrios, had said about the Public Defender. The Unit's director started to mention the names of all the people who had been released due to the habeas corpus petition filed by Ms. Gómez and he insulted her. He said however that she should not be cause for worry, as she was going to receive a “little gift” in the coming days. The director added that when Ms. Gómez disappeared, everything would return to normal again. Mr. Solari also mentioned that the director of Unit 29 had a folder with pictures of the public defender leaving her house and office. The Director of U-29 also allegedly had a list of all detainees on behalf of whom Ms. Gómez had filed habeas corpus petitions.

On June 2 2001, the *El Clarín* and *La Nación* newspapers reported that a prisoner, Melchor Romero, had been offered early release by the director of the Prisons System of Buenos Aires (*Servicio Penitenciario Bonaerense*), Mr. Bagnasco, in exchange for carrying out an attack against one of the public defender's family members. “Just shoot him twice, do not kill him, it is just to scare him, to make the mother stop messing with the *Servicio*”, was the deal offered to Mr. Romero. The Centre for Legal and Social Studies (CELS), an Argentinean human rights NGO,

asked the IACHR to issue preventive measures requiring Argentina to protect Ms. Gómez. The IACHR granted these and asked the Argentinean Government to take the necessary steps to protect Ms. Gómez and her family, and to bring those responsible for these attacks against her to justice.

Ana María Careaga {judge}: Ms. Careaga was dismissed in December 1998 following an impeachment procedure that did not afford her due process of law (see *Attacks on Justice 1998 and 2000*). In December 1999, with the arrival of the newly elected government, authorities in the Interior Ministry appointed her as a member of the High Tribunal in Corrientes province. The appointment also put aside a decision barring Ms Careaga from any public posts for 15 years, thereby rehabilitating her. During the period under review, Ms. Careaga also filed a petition before the San Luis High Tribunal asking it to review the removal decision, but this petition was dismissed. Furthermore, several criminal cases remain open against Ms. Careaga and her position in the Corrientes judiciary is expected to be come to an end soon.

Adriana Gallo de Ellard {judge}: Ms. Gallo was dismissed from her post as a judge in San Luis Province and barred from public service for eight years in November 1998 (see *Attacks on Justice 1998 and 2000*). During the period under review, Ms. Gallo was appointed as a member of the High Tribunal in Corrientes province. Ms. Gallo filed a petition before the San Luis High Tribunal asking for the dismissal decision against her to be revoked. The San Luis High Tribunal rejected this petition. Ms. Gallo proceeded to file a petition before the Federal Supreme Court.