

New excuses for old abuses



In 2000, social development and the status of economic, social and cultural rights in Argentina were marked by the beginning of a new administration. Poverty and indigence reached record numbers: 3,466,000 people living below the poverty line and 921,000 living in indigence. Unemployment grew and labour conditions became less secure.

The Alianza Government—a coalition formed by the Radical Civic Union (UCR) and the Solidary Country Front (FREPASO) led by the radical Fernando de la Rúa—continued to apply “structural adjustment” policies. Social policies that were implemented aimed merely at *reducing* the “negative” effects of economic policy. People excluded from the model were assisted, but no attempt was made to diagram an inclusive model that would defend the economic, social and cultural rights of the entire population.¹

In 2000, poverty and indigence reached record numbers. The most recent Permanent Household Survey (EPH) for Greater Buenos Aires found 3,466,000 people living below the poverty line and 921,000 living in indigence.² At the same time, unemployment grew (it was 15.4%³ in May 2000) and labour conditions became less secure.

The government’s answer⁴

In the last four years, protests and social mobilisations around the country have increased. Since 1996,⁵ barricades in public spaces and blockades on major roads have displaced the trade union strikes and sit-downs that were common in the 1980s and up until 1992. Then, the struggle centred around better wages and more jobs. Today, these demands have given way under the weight of unemployment and urgent social needs that affect a large sector of the population, especially in areas where the unemployment index is three times the national average.

In 1997, 104 roads were cut off during protests.⁶ According to a report published by the Centre of Studies for the New Majority in November 2000,⁷ there was one roadblock a week in 1998. In 1999, there was one every day and a half, and in 2000 not a single day went by without a roadblock in some part of the country.

In 2000, roadblocks abandoned their improvised and spontaneous nature. Protests were organised with the participation of neighbourhood groups of unemployed, grassroots organisations, trade union groups such as the Argentinean Workers Central (CTA), sectors of traditional political parties and other social groups.

The institutional response was characterised by repression and legal persecution of protestors, mostly union leaders and unemployed persons.⁸ This repression caused numerous injuries and many deaths. Various government security forces used unnecessary and illegitimate force to pressure activists and rapidly end the conflicts.

At the same time, social policy measures that were implemented were ineffective. By the end of 2000, the national government had not been able to establish a program or a coherent and systematic policy to reduce poverty. It has been submerged in a constant state of hesitation, which has kept it from taking steps to alleviate the situation even for those sectors hardest hit by the current economic policy.

Some comments on health rights

In 2000, there was a setback in the struggle against infectious diseases intimately linked to poverty. The number of tuberculosis and leprosy cases increased. The inexistence of reliable statistics about the number of people infected with the “Mal de Chagas” parasite⁹ makes it hard to describe the current state of the epidemic. A new treatment applicable to any type of patient has supposedly been approved, but not knowing the number of infected persons prevents its effective implementation.

Unemployment has increased the number of people in Argentina without health coverage. People aged 20-29 have less coverage, at the time when they are having families and need it the most. Women’s access to healthcare has decreased. For many women, public hospitals are the only place they can go for healthcare. This produces an increase in the demand, and strain, on public hospitals.¹⁰

1 CELS, *Annual Report on the Human Rights Situation in Argentina 2001* (from now on, CELS 2001 Report), Chapter 9: “Institutional Answers to the Explosion of Poverty” by Julieta Rossi and Juana Kweitel. In press.

2 INDEC, National Census and Statistics Institute. Press information, 2 February 2001. 28.9% of the population lives under the poverty line, and the indigent population is 7.7%. According to the same publication, in 1994 these indexes were 19.0% and 3.5%, respectively.

3 Permanent Household Survey, Total Urban Conglomerates. May 2000.

4 Synthesis of Chapter 3 of CELS 2001 Report: “Social Protests: Criminalisation and Repression” by María Capurro and Laura Itchart.

5 The *Report on the Human Rights Situation in Argentina* for 1996, warned about the rise in the proportion and variety of non-union protests, capable of threatening the provincial governments, and even areas of the National Executive Power. Nevertheless, at that time, there were not many moments when these collective action groups were able to come together to achieve common projects or objectives as part of the same anti-system movement.

6 *Report on the Human Rights Situation in Argentina, January-December 1997*, Buenos Aires: Eudeba Press, 1998, p. 168.

7 This study, and others relating to the rise of roadblock protests, may be found at www.nuevamayoria.com.

8 An estimated 2,800 people were prosecuted.

9 The “Mal de Chagas” (Chagas Disease) is a disease transmitted by an insect called “vinchuca,” through a parasite called *Tripanosoma Cruzi*. It affects humans and warm-blooded animals. It seriously damages the heart and other organs such as the digestive system or the nervous system. This sickness may be fatal in patients who develop serious heart damage.

Reproductive health coverage varies according to the situation in each province or municipality. In general, access to family planning services is irregular.¹¹ Sexual and reproductive health policies still focus largely on the woman as mother and hence are implemented through maternity-childcare health programs. This helps to preserve the gender patterns in sexual and reproductive practices that exclude men from responsibility.¹²

There is no one basic level of coverage assured by the public healthcare system for all Argentinians. The level of coverage varies greatly depending on the very unequal healthcare policies and resources of each province.¹³

Restrictions on economic, social and cultural rights¹⁴

The government implemented two measures that increased worker insecurity: the controversial Labour Reform Law sanctioned in May 2000, and the decrease in salaries imposed on public federal employees in mid-2000.

Salary cuts for public employees ranged from 12% (for salaries from AP 1,000 to AP 6,500/month¹⁵) to 15% (for salaries over AP 6,500). The cutback took effect on 1 June 2000 and affected approximately 140,000 public officials. In this way, the government modified, unilaterally and without consultation, a substantial aspect of its contracts with employees. The alleged motivation was the urgent need to reduce public expenditures to adjust the deficit in public accounts to the limits imposed by the fiscal solvency law. The government claimed the salary cuts allowed it to continue covering the costs of essential operations and avoid adverse consequences for society as a whole.¹⁶

The government declares itself in a delicate financial position, and because of this, decides to weaken the framework for protection of individual and collective rights. This is done, it claims, to avoid damage that, otherwise, would be caused the whole of society. This argument is dangerously close to the totalitarian practice of using “reasons of state” as the basis for all its decisions.

Argentina should decide, then, between the effective protection of human rights (as recognised in its constitution and in international treaties of human rights) and their illegitimacy, which would result in outlawing anyone who proclaims absolute respect for human rights as the country’s human rights situation falls apart.

The Labour Reform Law (N° 25.250) was sanctioned in the context of modification of labour rights to legitimise precarious labour relations and place a halo of legality over *de facto* labour practices. A main feature of the new law is application of a so-called one-year trial, or “test-period” for newly hired employees.

In 1998, indemnities paid to employees with little seniority were brutally reduced; therefore, the argument that employers face potential high indemnity payments when hiring new employees disappears when examining the legislation. Under the new regime, the indemnity paid on dismissal is only a twelfth of a worker’s monthly salary for each month on the job. This supposedly astronomical indemnity, used by employers to justify not hiring new employees, would in the case of a worker with six months of seniority come to a grand total of half of his or her monthly salary.

This reveals the fallacy of arguments in favour of the “test period” and makes it hard to understand the new law that extends this period to truly abusive limits. Nobody in their right mind can defend the need for a year-long trial period for workers, no matter what skills are required or what the job is.

One concludes, then, that the “test period” has, in effect, been legislated to eliminate guarantees of protection against arbitrary dismissal. This raises serious doubts about its constitutionality. ■

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10 A report produced by the Gender, Rights and Development Institute, and the Latin American and Caribbean Committee for the Defence of Women’s Rights (CLADEM), Argentine Section, for the Legal Center for Reproductive Rights and Public Policy (CRLP) in New York. This document was presented as an “Alternative Report” to the United Nations Committee for Political and Civil Rights in October 2000. On this occasion, the Argentine government had to account for the situation of these rights in Argentina, and explain the initiatives that have been developed to answer to the most controversial questions (women’s rights, institutional violence, the legacy of the dictatorship and the prison situation, among other topics). From now on, we shall refer to the document as “Alternative Report”.

11 María Correia, *Gender relations in Argentina. A sectorial panorama*. Buenos Aires: World Bank, 1999.

12 Alternative Report, *op. cit.*

13 *Ibid.*

14 CELS 2001 Report, Chapter 10: “Labor Rights. Labor Reform and Salary Cutbacks”, by Luis Campos.

15 USD 1 = AP 1 (Argentine pesos).

16 In the 2001 budget, the deficit ceiling was increased for economic policy reasons. Originally, a deficit of AP 4,800 million was calculated for the year 2001, but then raised to AP 7,000 million, mainly because of the rise in payments to service the national debt. The government reduced worker salaries to abide by a law, which it later *modified* to increase payments on national debt interests.