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Argentina fails to protect against arbitrary detentions

Interactive dialogue with the Working Group on Arbitrary Detention at the 39th session of the Human Rights Council

Amnesty International welcomes the [report](#) of the Working Group on Arbitrary Detention on its visit to Argentina from 8-18 May 2017.

Amnesty International has previously raised concerns about the increase of heavy handed police intervention -including arbitrary arrests and the excessive use of force- during social protests, the use of criminal procedure to intimate human rights defenders; the regressive policies adopted on the Migratory law; and the excessive use of pre-trial detention.

In 2016, the Working Group warned about risks of arbitrary detention due to the amplification of discretionary powers of the security forces. Today, after the implementation of the *Protocol on action by the State security forces during public manifestations*, adopted by the Ministry of Security, these risks were confirmed. Amnesty International has documented several episodes of excessive use of force and arbitrary detention by the security forces during 2017 and 2018; in the context of social protest. Amnesty International calls on the Human Rights Council to take meaningful action to address the situation documented in the Working Group's report, particularly with regard to the wide powers of the police to arrest.

In addition, as the Working Group noted, the criminal systems continues to be used selectively against Indigenous peoples, as a mechanism of intimidation. The use of ambiguous offences –such as “traffic blockage” and “disobedience and resistance to authority”- do not provide human rights defenders of the safeguards to ensure protection against arbitrary detention.

Amnesty International also calls on the Human Rights Council to address concerns regarding Decree 70/2017 on Migratory law, which authorizes deprivation of liberty at the outset of the summary procedure, removes the principle of exceptionality, and allows detention prior to an expulsion. This order was declared unconstitutional by the judiciary on 22 March 2018, after considering that the Decree includes in its provisions solutions which are incompatible with human rights standards, in violation of the due process and the right of defense of migrant persons due to shortened time frame of the express expulsion proceedings, the preventive retention of migrant persons and the risk of the detention becoming an arbitrary detention affecting the right to family reunification.

Amnesty International shares the Working Group's grave concern over the excessive use of pretrial detention and the urgent need to review this practice at both the federal and provincial levels. Argentina must ensure that pretrial detention becomes a measure of last resort in exceptional cases in order to reduce the number of people deprived of their liberty without conviction.

Amnesty International also urges the Argentinian authorities to take immediate steps to comply with the Working Group's Opinion concerning Milagro Sala case (Opinion 31/2016), who has been deprived of her liberty for exercising her right to protest. She has been held in pretrial detention for over 600 days. On October 27, 2016, the Working Group determined that her detention was arbitrary and requested that the government release her immediately.