

CASE STUDY: ARGENTINA

# Determinants of Anti-Trafficking Efforts





**British Institute of  
International and  
Comparative Law**

# Determinants of Anti-Trafficking Efforts: Argentina

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This report is published as part of the 'Determinants of Anti-Trafficking Efforts' Project. The project assesses the links and sequencing of specific factors that have yielded improved political will and capacity in national governments to address trafficking in persons and which have led to sustained and comprehensive anti-trafficking efforts. Through a multi-pronged approach, this project will conduct a review/meta-analysis of the current research and contribute a new data-set through expert interviews, a first of its kind global survey and a series of 14 case studies.

More information including the project outputs are available at:

<https://www.biicl.org/projects/determinants-of-anti-trafficking-efforts>

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# Executive Summary

Since the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the “Palermo Protocol”) in 2002, Argentina has achieved several positive developments in the context of the ‘4Ps’ of anti-trafficking principles: prevention, prosecution, protection, and partnership. These developments include: the enactment of Law 26.364, which recognized human trafficking as a crime, and the subsequent modifications of Law 26.842; the creation of specialized offices within the judiciary and the executive power; the creation of a free hotline that receives complaints on human trafficking cases; the enactment of Law 27.508, which created a fund to compensate victims of this crime; and the participation of the Argentinean specialized prosecutors as coordinators of the network Ibero-American Network of Specialized Prosecutors on Trafficking in Persons and Smuggling of Migrants (“REDTRAM”).

There are key determinants of these developments, including: (i) landmark jurisprudence; (ii) the role of civil society; (iii) the role of the media; (iv) the international legal framework; (v) the international reputation of the State (including international pressure); (vi) political will; and (vii) the adoption of a victim-centred approach, seemingly a unique determinant to anti-trafficking efforts in Argentina. All these determinants were present in the process leading to two identified key developments – namely the enactment of Laws 26.842 and 27.508.

Alongside the above positive determinants, there are negative determinants that hinder Argentina’s anti-trafficking efforts, including: (i) the lack of adequate training for State officials, which might evince a lack of political will; (ii) corruption and tolerance; (iii) structural poverty and the continuous economic crisis; (iv) the ‘myths’ behind human trafficking; and (v) the lack of clear statistics.

The COVID-19 pandemic forced state institutions and authorities to adapt and to implement social distancing measures. The pandemic specifically created several barriers for anti-trafficking efforts in Argentina, increasing the vulnerability of marginalized groups, and provoking an evolution of the modus operandi of traffickers, as well as of the nature of the crime of human trafficking. On the other hand, the COVID-19 pandemic also revealed an interest on the part of the State in fighting human trafficking even in (and in spite of) the context of a public health crisis.

# Introduction

Argentina was one of the States that promoted the creation of the Palermo Protocol, driven by its interest in combatting human trafficking of minors along with promoting an understanding of human trafficking as a transnational organized crime.<sup>1</sup> Argentina ratified the Palermo Protocol in August 2002 through Law 25.632,<sup>2</sup> and formally recognized human trafficking as a criminal offence six years later in April 2008, through Law 26.364.<sup>3</sup> Prior to the enactment of Law 26.364, Argentina had explicitly criminalized certain forms of exploitation, such as sexual exploitation and slavery. However, through Law 26.364, Argentina amended Article 145 *bis* of its Criminal Code to establish the crime of human trafficking as a criminal offence, as provided by Article 3 of the Palermo Protocol. Law 26.364 has two additional notable aspects: (1) Article 5 enshrines the non-punishment principle within Argentinian law; and (2) Article 6 recognizes different rights for victims of trafficking and exploitation, such as protection against reprisal, and the right to receive support – including free legal, psychological, and medical assistance.<sup>4</sup>

The *first key positive development* of anti-trafficking policy and efforts in Argentina was the enactment of Law 26.842,<sup>5</sup> which modified the crime of human trafficking established by Law 26.364. Amongst the various modifications introduced by this law, the most important ones are:<sup>6</sup> (i) the means element was eliminated from the crime, to instead be considered an aggravating circumstance; (ii) new forms of exploitation were introduced and recognized as constituting criminal offences (such as forced marriage); and (iii) the prescribed length of sentence was increased. These modifications are a seemingly strong commitment to ensuring adequate prosecution of the crime. Furthermore, the rights of victims were expanded, and two bodies dedicated to victim assistance were created: the Federal Council for the Fight against Human Trafficking and Exploitation and for the Protection and Assistance of Victims (the “Federal Council”); and the Executive Committee for the Fight against Human Trafficking and Exploitation and for the Protection and Assistance of Victims (the “Executive Committee”). Accordingly, Law 26.842 marks a positive shift towards more comprehensive prevention of the crime, as well as better protection of victims.

The *second key positive development* was the enactment of Law 27.508, proposed by the Federal Council.<sup>7</sup> Law 27.508 established a fund to ensure that victims of human trafficking

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<sup>1</sup> Anne Gallagher, *The International Law of Human Trafficking* (CUP, 2010) 77.

<sup>2</sup> Law 25.632, 1 August 2002 <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/75000-79999/77329/norma.htm>>

<sup>3</sup> Law 26.364, 9 April 2008 <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/140000-144999/140100/norma.htm>>

<sup>4</sup> Article 5 reads: “*Non-punishment. The victims of human trafficking will not be punished for the commission of any crime that is the direct result of having been the object of human trafficking. The sanctions and impediments established in the migratory legislation will also not be applicable, when the infractions are a consequence of the activity deployed during the commission of the illicit act from which they are victims.*” [Personal translation]

<sup>5</sup> Law 26.842, 19 December 2012 <<https://www.argentina.gob.ar/normativa/nacional/ley-26842-206554/texto>>

<sup>6</sup> PROTEX, “Nueva Ley de Trata de Personas” (*Ministerio Público Fiscal*, 2016) <[https://www.mpf.gob.ar/protex/files/2016/06/nueva\\_ley\\_de\\_trata\\_de\\_personas.pdf](https://www.mpf.gob.ar/protex/files/2016/06/nueva_ley_de_trata_de_personas.pdf)> accessed 7 November 2021.

<sup>7</sup> Law 27.508, 26 June 2019 <<http://servicios.infoleg.gob.ar/infolegInternet/verNorma.do?id=325439>>

have adequate access to compensation and assistance, even if the trafficker is insolvent.<sup>8</sup> In addition, Article 13 of Law 27.508 creates an obligation for prosecutors and judges to immediately identify the assets of the trafficker and to ensure that they are made available as reparations for the crime. In this regard, this development evinces a positive step towards adequate protection of and redress for victims of human trafficking in Argentina.

Apart from these key developments, there have been *additional notable positive measures* implemented in Argentina which fulfil the '4Ps' of anti-trafficking principles: prevention, prosecution, protection and partnership.

To achieve the principle of prevention, the Argentinean Human Trafficking Prosecutor Office ("PROTEX") has convened workshops on human trafficking and exploitation, specifically designed for training state officials and other state institutions.<sup>9</sup> Furthermore, Law 26.842 created the 145 Line, a free hotline that receives complaints on cases of human trafficking and exploitation and also ensures adequate prosecution of the crime.

To achieve the goal of protection, the Association of Argentinian Women for Human Rights ("AMADH"), with the support of PROTEX, requested derogation of an article in the Decree of Law 8031/1973 (Province of Buenos Aires) that criminalized persons engaged in prostitution. The article was derogated in 2018.<sup>10</sup> Other provinces similarly derogated articles that criminalized sex workers.<sup>11</sup> This development was pivotal to ensure that sex workers<sup>12</sup> are not unjustly prosecuted, particularly those who are victims of a crime (such as human trafficking or exploitation).

With regard to protection, it is also crucial to mention the case of *Montoya Pedro et. al.* [2016] ("*Montoya*").<sup>13</sup> The Federal Oral Tribunal of Tierra del Fuego was the first judicial body in Argentina to award compensation to a victim of human trafficking.<sup>14</sup> In this sense, *Montoya* can be credited with supporting more comprehensive protection of victims, as it is a landmark case that marked a commitment to ensuring access to reparations.

With regards to partnership in Argentina, the prosecutors in charge of PROTEX are also coordinators of REDTRAM.<sup>15</sup> As part of this partnership, REDTRAM convenes annual meetings with the support of other international organizations (such as the United Nations

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<sup>8</sup> Marcela Rodríguez, "Responsabilidad del Estado en la Trata de Personas: Análisis de un Caso", in Marcela Rodríguez et al (eds) *Reparación Integral: un Derecho de las Víctimas de Trata* (Defensoría General de la Nación, 2018) 96.

<sup>9</sup> "Resolución PGN 805/2013" (*Ministerio Público Fiscal*, 2013) <<https://www.mpf.gob.ar/protex/files/2016/03/PGN-0805-2013-001.pdf>> accessed 10 October 2021.

<sup>10</sup> PROTEX, "Informe Anual 2018" (*Ministerio Público Fiscal*, 2018) <<https://www.mpf.gob.ar/protex/files/2019/02/INFORME-ANUAL-2018.pdf>> accessed 10 October 2021.

<sup>11</sup> For a study about this topic, see: "El Trabajo Sexual en los Códigos Contravencionales y de Faltas en Argentina" (*Instituto de Estudios Comparados en Ciencias Penales y Sociales*, 2013) <<https://inecip.org/documentos/el-trabajo-sexual-en-los-codigos-contravencionales-y-de-faltas-en-argentina/>> accessed 10 October 2021.

<sup>12</sup> In Argentina, whereas 'autonomous prostitution' is allowed, 'sex workers' are not recognized within the legislation. This means that, since sex is not recognized as a legitimate form of work, sex workers do not have any labour protection in Argentina. It should also be noted that there is an ongoing discussion in Argentina around the recognition of 'prostitution' as work.

<sup>13</sup> *Montoya Pedro et al* [2016] Federal Oral Tribunal of Tierra del Fuego, FCR 52019312/2012/T01.

<sup>14</sup> A summary of the case is available at: United Nations Office of Drugs and Crime, "Montoya, Pedro Eduardo y otros" (*Sherloc*, 2016) <[https://sherloc.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/arg/2016/montoya\\_pedro\\_eduardo\\_y\\_otros\\_.html](https://sherloc.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/arg/2016/montoya_pedro_eduardo_y_otros_.html)> accessed 10 October 2021.

<sup>15</sup> The different documents of the REDTRAM can be found here: <<https://www.aiamp.info/index.php/redes-permanentes-aiamp/red-de-trata-de-personas/documentos>>

Office of Drugs and Crime (“UNODC”) or the Migration EU eXpertise Initiative (“MIEUX”), discussing developments and tackling the main regional issues and topics.

#### Methodology and limitations

This case study was implemented in line with the shared methodology and research tools applied at large by a team of national research consultants, along with the guidance of the BIICL research team. This shared methodology was tailored to the context of Argentina, while keeping in mind the common research goals of the project. These developments were then further informed by interviews with key stakeholders, focus groups, and in consultation with the BIICL research team, with the larger goal of seeking to understand and improve upon the ‘4Ps’ (i.e. prevention, protection, prosecution, partnership).

The Argentinean case study relied upon in-depth, cross-temporal, national level desk research including analysis of policy documents and academic commentary on anti-trafficking efforts in Argentina. In addition, where possible, the *travaux préparatoires*, relevant drafting documents and legislation were also consulted to better understand the development of policies.

To gain further insight, interviews with relevant experts and stakeholders were held. In total, ten interviews were conducted with relevant stakeholders (including academics, activists working for relevant civil society organisations, and persons working at key state organs in the fight against human trafficking in Argentina), balancing between State and non-State actors. In addition, two focus groups were held, one with non-State actors (with four participants), and one with State actors (with three participants).

As for the limitations, it is important to note the difficulty in accessing relevant literature on trafficking and anti-trafficking initiatives in Argentina, where information is limited and/or non-existent.

# Context

In Argentina, the crime of human trafficking is a criminal offence under Article 145 *bis* of the Criminal Code and is composed of two elements: (1) an act (such as recruitment, transportation, or harbouring); and (2) an intent, being the purpose of exploitation. The purpose of exploitation as stipulated by Law 26.842 includes: (a) slavery, servitude and forced labour; (b) sexual exploitation; (c) child pornography; (d) forced marriage; and (e) the removal of organs, fluids and human tissue. The element of forced criminality is not recognized in the current legal framework, so that victims subjected to this form of exploitation may not be properly recognized as victims and might instead be subject to prosecution.<sup>16</sup> Similarly, illegal adoption of minors is not recognized as a form of exploitation under the criminal offence of trafficking.

Article 145 *ter* further sets out aggravating circumstances, including the means element of the Palermo Protocol definition, which may vitiate consent and/or impact upon sentencing conditions. These factors may include coercion, fraud, and abuse of a position of vulnerability. Furthermore, in accordance with Article 33 of the Code of Criminal Procedure, the crime of human trafficking falls under federal jurisdiction.

Apart from Law 26.364, and the subsequent amendments in Law 26.842, there have been further and notable legislative developments and resolutions. For example, Article 17 of Law 12.331 prohibits the administration of brothels.<sup>17</sup> Law 26.061 is also key, with Article 9 carving out specific protections for children and/or teenagers, including a prohibition against any exploitation of children and/or minors.<sup>18</sup> In addition, Law 27.046 is important for promoting the principle of prevention, including raising public awareness through posters which include the slogan: “*Sexual exploitation of children and teenagers and human trafficking is a grave crime in Argentina. Denounce it!*” around national and international airports and other terminals of transport.<sup>19</sup> Finally, Law 27.508 (mentioned above), created the national fund to assist and protect victims of human trafficking.

In addition to the legislative developments there are also important resolutions.<sup>20</sup> This includes Resolution 2149/2008 from the Ministry of Justice, Security and Human Rights, which established the Office for the Rescue and Assistance of Victims of Trafficking, which holds investigatory powers to prevent the crime of human trafficking, along with providing victim

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<sup>16</sup> When the criminal activity is related to illicit trafficking of drugs, the victim is called ‘mula’ in Spanish.

<sup>17</sup> Law 12.331, 30 December 1936 <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/190000-194999/194957/norma.htm>>

<sup>18</sup> Law 26.061, 28 September 2005 <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/110000-114999/110778/norma.htm>>

<sup>19</sup> Law 27.046, 23 December 2014 <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/240000-244999/240451/norma.htm>>

<sup>20</sup> A ‘Resolution’ is a measure dictated in the orbit of the executive power (for example, by a minister of a particular ministry) in the framework of their attributions or delegated powers.

support and assistance.<sup>21</sup> In 2012, this office was renamed the National Programme of Rescue and Assistance of Victims of Trafficking (“Rescue Programme”).

Argentina is also party to international conventions relating to human trafficking. These conventions include the American Convention on Human Rights and the Convention on the Elimination of All Forms of Discrimination against Women (“CEDAW”) – both of which have constitutional supremacy over domestic Argentinian law under Article 75, subsection 22. Other applicable international conventions with anti-trafficking implications include: the Inter-American Convention on International Traffic in Minors; ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; ILO Convention No. 29 concerning Forced or Compulsory Labour and its Protocol No. 29; and ILO Convention No. 105 concerning the Abolition of Forced Labour.

Further, Argentina is a member of a regional anti-trafficking network, REDTRAM, which is currently coordinated by the prosecutors in charge of PROTEX. A pivotal instrument of this network is the Protocol of Inter-institutional Cooperation to Strengthen the Investigation, Attention and Protection of Victims of the Crime of Human Trafficking and Smuggling of Migrants amongst the Ibero-American Prosecutors of 2017.<sup>22</sup> Finally, the prosecutors in charge of PROTEX are frequently invited to expert meetings in trafficking in persons organized by the UNODC.<sup>23</sup>

### Victim identification data

By July 2020, the total number of victims of human trafficking identified through criminal prosecution was 1731, of which 81.5% were women.<sup>24</sup> Furthermore, 43.8% were migrants and 28.2% were from Argentina (there is no information with regards to the remaining 28%); and 11.8% were minors.

The Rescue Programme has gathered data on ‘rescued victims’. According to its statistics, between the enactment of Law 26.364 and 31 July 2021, the total number of ‘rescued victims’ was 16736.<sup>25</sup> As of August 2019, the total was 14505, including 8% who were minors and 51% who were migrants.<sup>26</sup> The majority of migrants exploited in Argentina come from the Dominican Republic, Paraguay, Peru, Bolivia, Uruguay, Venezuela, and Brazil.<sup>27</sup> Regarding

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<sup>21</sup> Resolution 2149/2008, 6 August 2008  
<[https://www.mpf.gov.ar/Institucional/UnidadesFE/Ufase/trata/Asistencia/Resolucion\\_2149-08\\_creacion\\_Oficina\\_de\\_Rescate.pdf](https://www.mpf.gov.ar/Institucional/UnidadesFE/Ufase/trata/Asistencia/Resolucion_2149-08_creacion_Oficina_de_Rescate.pdf)>

<sup>22</sup> This protocol establishes guidelines related to: the prevention of the crime (such as promoting workshops on the crime with a human rights perspective aimed at training state officials); cooperation in the investigation and prosecution of the crime (such as exchanging information and establishing joint investigation teams); and the protection and assistance of the victims, establishing common minimum standards. Available at: <<https://www.aiamp.info/index.php/redes-permanentes-aiamp/red-de-trata-de-personas/documentos/protocolo-de-cooperacion-interinstitucional-para-fortalecer-la-investigacion-atencion-y-proteccion-a-victimas-del-delito-de-trata-de-personas-y-el-trafico-ilicito-de-migrantes-entre-los-ministerios-publicos-iberamericanos-aiamp-2017>>

<sup>23</sup> For example, they were invited in 2017. See: PROTEX, “Informe Anual 2017” (*Ministerio Publico Fiscal*, 2017) <<https://www.mpf.gob.ar/protex/files/2018/03/INFORME-ANUAL-2017.pdf>> accessed 10 October 2021.

<sup>24</sup> “En Once Años Hubo 405 Sentencias en Todo el País por Trata de Personas” (*Fiscales*, 2020) <<https://www.fiscales.gob.ar/trata/en-once-anos-hubo-405-sentencias-en-todo-el-pais-por-trata-de-personas/>> accessed 10 October 2021.

<sup>25</sup> Interviewee AR02.

<sup>26</sup> Available at: <[https://www.argentina.gob.ar/sites/default/files/estadisticas\\_trata\\_2008\\_31agosto2019pdf.pdf](https://www.argentina.gob.ar/sites/default/files/estadisticas_trata_2008_31agosto2019pdf.pdf)> accessed 10 October 2021.

<sup>27</sup> “2021 Trafficking in Persons Report: Argentina” (*U.S. Department of State*, 2021) <<https://www.state.gov/reports/2021-trafficking-in-persons-report/argentina/>> accessed 10 October 2021.

the type of exploitation to which rescued victims were subjected, the majority had been subjected to labour exploitation (57%), with the next most common type of exploitation being sexual exploitation (42%) and the remainder being 'other types' of exploitation (1%).

#### Investigations and prosecutions data

As recognized by the UNODC in its Global Report on Trafficking in Persons of 2018, Argentina reported the highest numbers of prosecutions and convictions of trafficking-related offences in the South American region.<sup>28</sup> By July 2020, Argentina reported a total of 405 decisions on human trafficking and exploitation, of which 282 were convictions of human trafficking, 62 were convictions of exploitation, and 61 were acquittals.<sup>29</sup>

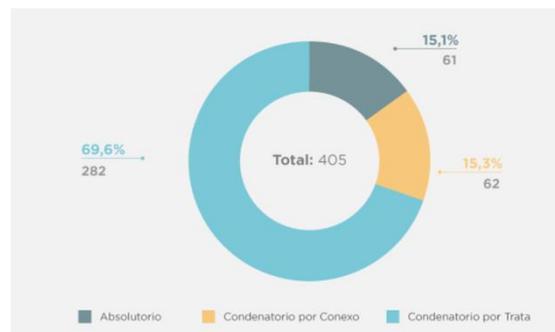
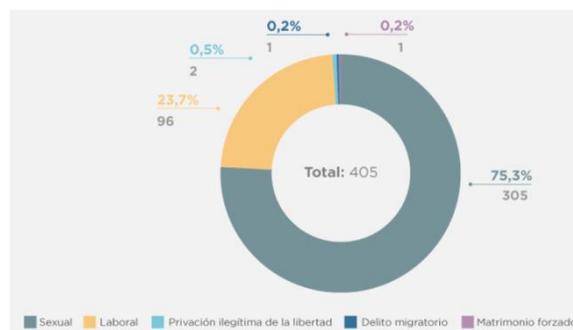


Figure 1. Total of decisions.

Graphic elaborated by PROTEX

As for the type of exploitation, the majority of the decisions were on sexual exploitation (75.3%), followed by labour exploitation (23.7%).<sup>30</sup>

Figure 2. Type of exploitation.



Graphic elaborated by PROTEX

<sup>28</sup> "Global Report on Trafficking in Persons" (United Nations Office of Drugs and Crime, 2018) <[https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTiP\\_2018\\_BOOK\\_web\\_small.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTiP_2018_BOOK_web_small.pdf)> accessed 10 October 2021, 78.

<sup>29</sup> "En Once Años Hubo 405 Sentencias en Todo el País por Trata de Personas" (Fiscales, 2020) <<https://www.fiscales.gob.ar/trata/en-once-anos-hubo-405-sentencias-en-todo-el-pais-por-trata-de-personas/>> accessed 10 October 2021

<sup>30</sup> It should be noted that, according to the data produced by the Rescue Programme mentioned before, the majority of the victims rescued were subjected to labour exploitation; however, the majority of the decisions are on sexual exploitation. This is due to the fact that there are less cases on labour exploitation, but the quantity of victims found in cases of labour exploitation is usually higher than in cases of sexual exploitation.

## Key stakeholders and actors

Argentina has different specialized actors that participate in anti-trafficking efforts. Law 26.842 (as mentioned above) established two key actors. One of them is the Federal Council, constituted by members of different state bodies, along with pivotal contributions from civil society and international organizations (such as the International Organisation of Migration (“IOM”) or the International Labour Organisation (“ILO”)). The inclusion of civil society and international organizations in the composition of the Federal Council demonstrates the importance of their presence in shaping anti-trafficking initiatives in Argentina. The Federal Council meets on a periodic basis and is charged with unique and particular responsibilities, such as establishing a strategy to fight human trafficking. Amongst other positive developments, the Federal Council led the enactment of Law 27.508.

The second key actor created by Law 26.842 is the Executive Committee.<sup>31</sup> The Executive Committee is comprised of different ministries of the executive power, which in turn is responsible for publishing the National Plan against Human Trafficking on a biannual basis. The National Plan 2020-2022 centralizes prevention, assistance, prosecution and institutional strengthening with regards to human trafficking cases.<sup>32</sup>

Another important actor for anti-trafficking policy and initiatives is the Rescue Programme. The Rescue Programme is composed of a multidisciplinary team of lawyers, psychologists and doctors, amongst others.<sup>33</sup> The Rescue Programme participates in raids, as ordered by the judiciary, and is also responsible for ensuring immediate victim assistance. It also shares responsibility for the 145 Line hotline, together with PROTEX.

Another key actor is PROTEX, a specialized prosecutors’ office created in 2013 to continue the work previously undertaken by the Fiscal Unit for Assistance in Kidnapping for Extortion and Human Trafficking (“UFASE”).<sup>34</sup> PROTEX has an important portfolio of responsibilities, including: to assist in the prosecution of human trafficking; to receive complaints on human trafficking; to train State officials and/or institutions to build knowledge on human trafficking; and to publish statistics on trafficking in persons.

A similar important initiative by the Public Ministry of Defense is the Program of Advice and Promotion of the Rights of the Victims of the Crime of Human Trafficking, created in 2014.<sup>35</sup> This Program also ensures that victims of trafficking and/or exploitation are provided adequate access to justice.

In addition, the Ministry of Security has released the Direction of Investigations against Human Trafficking and Crimes against Sexual Integrity. This Direction establishes guides on prevention and investigation of human trafficking, and coordinates the Integrated Criminal

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<sup>31</sup> Official website: <https://www.argentina.gob.ar/jefatura/comiteconalatrata>

<sup>32</sup> Available at: <[https://www.argentina.gob.ar/sites/default/files/plan\\_2020-2022\\_digital\\_1.pdf](https://www.argentina.gob.ar/sites/default/files/plan_2020-2022_digital_1.pdf)>

<sup>33</sup> “Lucha Contra la Trata: una Política de Estado que Rescató más de 13 mil Víctimas” (*Government of Argentina*, 2019) <<https://www.argentina.gob.ar/noticias/lucha-contra-la-trata-una-politica-de-estado-que-rescato-mas-de-13-mil-victimas>> accessed 10 October 2021.

<sup>34</sup> PGN 100/08, 22 August 2008 <<https://www.mpf.gob.ar/protex/files/2016/03/PGN-100-08-competencia-trata.pdf>>

<sup>35</sup> “Programa de Asesoramiento y Promoción de Derechos de las Víctimas del Delito de Trata de Personas” (*Ministerio Público de la Defensa*, 2022) <<https://www.mpd.gov.ar/index.php/programa-de-asesoramiento-y-promocion-de-derechos-de-las-victimas-del-delito-de-trata-de-personas>> accessed 10 October 2021.

Information System on the Crime of Trafficking in Persons (“SISTRATA”), which gathers information about the interventions carried out by security forces in cases of human trafficking.<sup>36</sup>

Finally, the National Secretariat for Childhood, Adolescence, and Family (“SENAF”) provides assistance and protection to victims of human trafficking, along with training for public officials.<sup>37</sup>

## Funding

The sources of funding for anti-trafficking efforts in Argentina are largely either limited or have not been made public. To that end, one of the interviewees stated that funding in Argentina has always been ‘minor’.<sup>38</sup>

Two streams of funding can be identified through publicly available information. The first type has been provided to support partnerships, including to organize the annual meetings of REDTRAM. In that same vein, in 2017, PROTEX obtained funding from UNODC, MIEUX and the Spanish Agent of International Cooperation for Development (“AECID”).<sup>39</sup> The second type of funding is to produce anti-trafficking research. For example, in 2013, the European Union funded the publication of “*Qué hicimos con la trata? Un recorrido por las principales políticas públicas de trata sexual en Argentina*” (in English, “What did we do with trafficking? An itinerary of the main public policies on human trafficking for sexual exploitation in Argentina”), a report authored by the Institute for Comparative Studies in Criminal and Social Sciences (“INECIP”).<sup>40</sup>

Particular phenomena or systems with potential impact on anti-trafficking structures

Migration has a particular impact on anti-trafficking structures in Argentina. Firstly, Article 23 of Law 25.871, as modified by Decree 616/2010, is an immigration policy allowing victims of human trafficking or exploitation to remain in Argentina.<sup>41</sup> This article complements Article 4 of Law 26.842, recognizing a victim’s right to “remain in the country, if she/he decides to, receiving the necessary documentation towards that aim” [personal translation]. These provisions are significant in ensuring adequate victim protection by providing stable immigration status, as well as adequate prosecution of the crime, by ensuring that a key witness can remain accessible for giving evidence.

Secondly, and in relation to the migration flows coming from Venezuela (which provoked a crisis exacerbated by the COVID-19 pandemic),<sup>42</sup> Argentina has received approximately

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<sup>36</sup> “Dirección de Investigaciones contra la Trata de Personas y Delitos contra la Integridad Sexual” (*Government of Argentina*, 2022) <<https://www.argentina.gob.ar/seguridad/investigacion/trata>> accessed 10 October 2021.

<sup>37</sup> “Asistencia a la Víctima” (*Government of Argentina*, 2022) <<https://www.argentina.gob.ar/comitecontralatrata/asistencia-la-victima>> accessed 10 October 2021.

<sup>38</sup> Interviewee AR16.

<sup>39</sup> PROTEX, “Informe Anual 2017” (*Ministerio Público Fiscal*, 2017) <<https://www.mpf.gob.ar/protex/files/2018/03/INFORME-ANUAL-2017.pdf>> accessed 10 October 2021.

<sup>40</sup> “¿Qué Hicimos con la Trata? Un Recorrido por las Principales Políticas Públicas de Trata Sexual en Argentina” (*Instituto de Estudios Comparados en Ciencias Penales y Sociales*, 2013) <<https://incip.org/publicaciones/que-hicimos-con-la-trata-un-recorrido-por-las-principales-politicas-publicas-de-trata-sexual-en-argentina/>> accessed 10 October 2021.

<sup>41</sup> Decree 616/2010, 3 May 2010 <<https://www.acnur.org/fileadmin/Documentos/BDL/2010/7762.pdf>>

<sup>42</sup> “Crisis de Migrantes y Refugiados Venezolanos” (*Organization of American States*, 2020) <[https://www.oas.org/fpdb/press/OEA\\_Dic20-crisis-de-migrantes-y-refugiados-venezolanos-informe-de-situacion.pdf](https://www.oas.org/fpdb/press/OEA_Dic20-crisis-de-migrantes-y-refugiados-venezolanos-informe-de-situacion.pdf)> accessed 10 October 2021.

145,000 Venezuelan migrants.<sup>43</sup> Even though Argentina has simplified the procedures for Venezuelans to obtain residence, a study by the IOM found that migrants still face barriers to normalizing their living conditions and being formally included in the labour market, putting them at risk of being exploited.<sup>44</sup>

### International rankings and assessments

Since 2018 and to date, Argentina is considered a 'Tier 1' State by the U.S. State Department, meaning that Argentina "*fully meets the minimum standards for the elimination of trafficking*". This status means that Argentina, together with Colombia and Chile, are the only Tier 1 countries in the Latin-American region. In its most recent report, the U.S. State Department highlighted that: "*The government continued to demonstrate serious and sustained efforts during the reporting period, considering the impact of the COVID-19 pandemic on its anti-trafficking capacity*".<sup>45</sup> However, the report also raised concerns that Argentina has convicted fewer traffickers overall (compared to other national averages), and that official complicity and corruption are still of concern in their potential for impeding anti-trafficking initiatives.

Argentina was also assessed by the UN Special Rapporteur on Trafficking in Persons, Joy Ngozi Ezeilo, who conducted a mission to Argentina in 2011.<sup>46</sup> In her report, the Special Rapporteur highlighted with concern: the lack of statistical information; the limitations of Law 26.364, which required victims over 18 years old to demonstrate they did not give consent; the weak coordination of anti-trafficking efforts; and the fact that labour exploitation seemed to be "hidden", amongst other issues. Accordingly, the Special Rapporteur endorsed the amendment of Law 26.364, which featured provisions to ensure holistic assistance to victims of the crime, with a human rights perspective. She also recommended the establishment of a holistic national plan of action to fight human trafficking; the creation of a fund to compensate victims; and training for state officials. These recommendations have been largely addressed by the anti-trafficking legislative developments in Argentina, including the enactment of Law 26.842 and Law 27.508 (as described above).

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<sup>43</sup> "Diagnóstico sobre la Situación e Incidencia de la Trata de Personas en Contextos Humanitarios en América del Sur" (*International Organisation of Migration*, 2020) <<https://repositoryoim.org/bitstream/handle/20.500.11788/2301/ROBUE-OIM%20033.pdf?sequence=1&isAllowed=y/>> accessed 10 October 2021, 33-34.

<sup>44</sup> Ibid.

<sup>45</sup> "2021 Trafficking in Persons Report: Argentina" (*U.S. Department of State*, 2021) <<https://www.state.gov/reports/2021-trafficking-in-persons-report/argentina/>> accessed 10 October 2021.

<sup>46</sup> "Report by Special Rapporteur Joy Ngozi Ezeilo" (24 May 2011) UN Doc A/HRC/17/35/Add.4.

# Determinants of anti-trafficking efforts

In Argentina, the overall determinants of anti-trafficking efforts are: (i) landmark jurisprudence; (ii) the role of civil society; (iii) the role of the media; (iv) the international legal framework; (v) the international reputation of the State (including international pressure); and (vi) political will. Finally, a determinant that is unique to anti-trafficking efforts in Argentina is (vii) the adoption of a victim-centred approach, more particularly the role given to victims when a development is enacted.<sup>47</sup>

Landmark jurisprudence (or '*casos testigo*' in Spanish) drove forward anti-trafficking developments in Argentina. Together with the contribution of civil society organizations and the media, certain cases have captured public attention and drawn focus to the larger topic of human trafficking, along with creating a corresponding demand for state intervention.

A key example is the incident and response to Marita Verón (the trial of which is hereinafter referred to as *Verón*), who was a victim of human trafficking and sexual exploitation after having been kidnapped in 2002.<sup>48</sup> At that time, Argentina had not yet criminalized human trafficking. In response, Marita Verón's mother, Susana Trimarco, advocated for change by creating an NGO (Fundación María de los Ángeles). Through this organization, Ms. Trimarco sought justice for her daughter along with raising awareness of human trafficking in Argentina.

Marita Verón evinced an invisible truth: that human trafficking is not an abstract concept, but a tragic reality in Argentina.<sup>49</sup> This case further shed light on the legislative gap in the criminalization of human trafficking. In direct response, the enactment of Law 26.364 officially criminalized human trafficking. In the related legislative debates, a member of Parliament specifically paid tribute to the scale of work accomplished by Verón's mother, Ms. Trimarco.<sup>50</sup> The legacy of *Verón* was also pivotal in promoting Law 26.842 (as explained below in subsection 4.2).

Different interviewees also highlighted the role of civil society organizations as a key determinant for raising public awareness and eliciting state intervention.<sup>51</sup> Indeed, the parliamentary debates relating to the drafting of Law 26.364 demonstrate that some members of Parliament relied upon the views of civil society organizations, even directly quoting statements from various organizations.<sup>52</sup> Further, members of Parliament acknowledged that:

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<sup>47</sup> The consultants held a discussion around the adoption of a "victim-centred approach", and whether it is a determinant in itself, or a composite determinant that has been underpinned by other determinants (mainly political will). In the particular case of Argentina, considering the two interviewees who mentioned a victim-centred approach as a determinant in itself (Interviewee AR02 and Interviewee AR03, both state officials) and the legislative debates that emphasize the importance of victims when developing an anti-trafficking effort, it has been concluded that a victim-centred approach has become a determinant in and of itself.

<sup>48</sup> *Iñigo David Gustavo et. al on illegitimate deprivation of liberty and corruption* [2013] Supreme Court of Justice of Tucum, Case No: P23554 / 2002.

<sup>49</sup> Interviewee AR02.

<sup>50</sup> Legislative Debates, Cámara de Diputados/as, 5ta Reunión, 2da Sesión Ordinaria, 9 April 2008, 66.

<sup>51</sup> Interviewee AR01; Interviewee AR03; Interviewee AR05; Interviewee AR07; Interviewee AR08; Interviewee AR09; Interviewee AR11; Interviewee AR13; Interviewee AR14; Interviewee AR16.

<sup>52</sup> Legislative Debates, Cámara de Diputados/as, 5ta Reunión, 2da Sesión Ordinaria, 9 April 2008, 17, 19.

“Organizations of civil society put this crime again in the public agenda”.<sup>53</sup> Similarly, the legislative debates for Law 26.842 also referred to the pivotal role of civil society in the fight against human trafficking,<sup>54</sup> and included corresponding expressions of gratitude for the efforts of civil society.<sup>55</sup> As expressed by different interviewees,<sup>56</sup> the Federal Council includes civil society organizations as part of its membership, an inclusion directly linked to the importance of these organization in the broader development of anti-trafficking efforts.

In close connection with civil society organizations, the third identified determinant is the role of the media. As different interviewees highlighted, the media was particularly important in bringing awareness to key cases of human trafficking in Argentina.<sup>57</sup> For example, one interviewee highlighted the role of the media in publishing developments in the *Montoya* case,<sup>58</sup> which in turn resulted in a notable positive development that provided – for the first time – compensation for a victim of human trafficking.

The international legal framework is also a determinant of anti-trafficking efforts in Argentina. Argentina ratified the Palermo Protocol in 2002, but only enacted enabling legislation to prosecute the crime of trafficking in persons in 2008 – six years later. Furthermore, Argentina had already enacted legislation against sexual exploitation in 1913 (Law 9.143, ‘Alfredo Palacios’),<sup>59</sup> pre-dating the existence of the Palermo Protocol.<sup>60</sup> This law was notable because it was the first piece of legislation in Latin America that promoted the prosecution of sexual exploitation and contained provisions on assistance to victims. Even with this seminal law in existence, Argentina’s international obligations still have a significant impact as a determinant of anti-trafficking policy and initiatives.<sup>61</sup>

As the legislative debates for Law 26.364 exemplify, one of its driving factors was how Argentina failed to comply with its international obligations through failing to criminalize human trafficking.<sup>62</sup> Furthermore, the Federal Chamber of Criminal Cassation, the highest tribunal with criminal competence in Argentina, frequently references international legal obligations on human trafficking in its jurisprudence (such as the Palermo Protocol or the American Convention on Human Rights).<sup>63</sup> In addition, international obligations were also foundational in the development of Law 27.508,<sup>64</sup> as one interviewee emphasized.<sup>65</sup>

A concurrent and related determinant is the State’s international reputation. This determinant is connected to the “international pressure”<sup>66</sup> and control exercised by international

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<sup>53</sup> Ibid 45.

<sup>54</sup> Legislative Debates, Cámara de Diputados/as, 23ª Reunión, 1ra Sesión Extraordinaria, 19 December 2012, 26.

<sup>55</sup> Ibid, 107.

<sup>56</sup> Interviewee AR03.

<sup>57</sup> Interviewee AR01; Interviewee AR04; Interviewee AR05; Interviewee AR14; Interviewee AR15.

<sup>58</sup> Interviewee AR09.

<sup>59</sup> Law 9143, 23 September 1913 <<http://www.sajj.gov.ar/9143-nacional-ley-sobre-trata-personas-lnn0026302-1913-09-23/123456789-0abc-defg-g20-36200ncanyel>>

<sup>60</sup> Interviewee AR02; Interviewee AR07; Interviewee AR16.

<sup>61</sup> Interviewee AR02; Interviewee AR06; Interviewee AR09; Interviewee AR11; Interviewee AR14, and Interviewee AR16.

<sup>62</sup> Legislative Debates, Cámara de Diputados/as, 5ta Reunión, 2da Sesión Ordinaria, 9 April 2008, 26.

<sup>63</sup> PROTEX, “Reseña Jurisprudencial sobre Casos de Trata de la Cámara Federal de Casación Penal” (*Ministerio Público Fiscal*, 2016) <<https://www.mpf.gov.ar/protex/files/2016/04/rese%C3%B1a-de-la-CNCP-sobre-trata-de-personas.pdf>> accessed 10 October 2021.

<sup>64</sup> Legislative Debates, Cámara de Senadores/as, 6ta Reunión, 3ra Sesión Especial, 22 May 2019, 28.

<sup>65</sup> Interviewee AR03.

<sup>66</sup> Interviewee AR01.

organisations such as the UNODC and other related UN bodies.<sup>67</sup> For example, in the process of drafting Law 26.364, legislators relied upon different statistics published by international organizations, including UNODC, IOM and ILO.<sup>68</sup> In particular, one legislator expressed with concern that: “*The U.S State Department has pointed out that Argentina does not comply with the minimum standards for the elimination of trafficking in persons. This is motive of concern, because in these topics it is important to respond to the international considerations on the subject matter*”.<sup>69</sup>

The last main determinant is political will, as expressed by multiple interviewees.<sup>70</sup> An interviewee described the importance of political will as determinative of whether the State will (or will not) consider particular societal claims.<sup>71</sup> For example, a study between 2016 and 2017 reported that political will to fight human trafficking decreased, with authorities instead focused on other areas such as drug trafficking.<sup>72</sup> However, human trafficking regained traction in the public agenda in 2018, which might also be associated with renewed political will. This is further exemplified by endorsements of the Federal Council, including its support for periodic meetings.<sup>73</sup> For example, between 2017 and 2018, there were at least four periodic meetings with broad participation of the different provinces.<sup>74</sup> Furthermore, on 31 July 2018, the First Biannual Plan on the Fight Against Human Trafficking and Exploitation of Persons, elaborated by the Executive Committee, was presented.<sup>75</sup>

A determinant unique to Argentina is the adoption of a victim-centred approach.<sup>76</sup> This approach, for example, prompted the development of provisions in Law 26.364 to assist and protect victims, including through the incorporation of the non-punishment principle in Argentinian legislation. One of the interviewees expressed that this determinant also directed the enactment of Law 26.842, which similarly features provisions on victim assistance and protection.<sup>77</sup> When asked about the rationale underlying those provisions, the interviewee expressed that: “*This was considered to think about a State that persecutes and fights against this crime, but that also does not abandon the victims who are, mainly, women with social and economic vulnerabilities*”.

Similarly, the legislative debates demonstrate an interest to protect and assist victims of trafficking and/or exploitation, separate and apart from punishing trafficking offenders.<sup>78</sup> Other developments of this determinant include the guide produced by PROTEX on the declaration

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<sup>67</sup> Interviewee AR03.

<sup>68</sup> Legislative Debates, Cámara de Senadores/as, 30ta Reunión, 27a Sesión Ordinaria, 6 December 2006, 65. [personal translation]

<sup>69</sup> Ibid.

<sup>70</sup> Interviewee AR02; Interviewee AR04; Interviewee AR09; Interviewee AR08; Interviewee AR14; Interviewee AR16.

<sup>71</sup> Interviewee AR08.

<sup>72</sup> “La Trata Sexual en Argentina: a 10 años de la ley”, (*Instituto de Estudios Comparados en Ciencias Penales y Sociales*, 2020) <<https://inecip.org/wp-content/uploads/2021/05/INECIP-La-trata-sexual-en-Argentina-a-10-a%C3%B1os-de-la-ley-2021-2.pdf>> accessed 10 October 2021, 49.

<sup>73</sup> Ibid, 50.

<sup>74</sup> Ibid.

<sup>75</sup> “Plan Nacional 2018-2020 de Lucha contra la Trata y Explotación de Personas” (*Government of Argentina*, 2018) <<https://www.argentina.gob.ar/noticias/plan-nacional-2018-2020-de-lucha-contra-la-trata-y-explotacion-de-personas>> accessed 07 November 2021.

<sup>76</sup> Interviewee AR02; Interviewee AR03.

<sup>77</sup> Interviewee AR02.

<sup>78</sup> Legislative Debates, Cámara de Senadores/as, 10ma Reunión, 8va Sesión Ordinaria, 31 August 2011, 33.

of victims of human trafficking, which highlights that the judicial system should be aware of particular vulnerabilities of victims and should not re-victimize them.<sup>79</sup>

Barriers to anti-trafficking efforts include the lack of adequate training of state officials (including the lack of a gendered perspective),<sup>80</sup> which according to one interviewee is due to a lack of political will.<sup>81</sup> Similarly, this barrier can be attributed to corruption and tolerance from the State. One interviewee expressed that: “*The highest criminal tribunal in Argentina has concluded several times that the commission of any organized crime is not possible without – at least – the acquiescent behaviour of the ones in charge to enforce the law*”.<sup>82</sup>

Larger systemic barriers to anti-trafficking efforts include structural poverty in Argentina, which together with the continuing economic crisis creates large groups of individuals who are particularly vulnerable to human trafficking.<sup>83</sup> Additionally, the myths behind human trafficking are a barrier to detecting further incidents of ‘atypical’ human trafficking.<sup>84</sup> Specifically, these atypical incidents are contrasted against archetypical ideas of how a case of human trafficking is or ‘should’ be, including victim or offender profiles and the actions or circumstances of events. As an interviewee expressed, “*The archetyp[al] images that we cannot break irradiate all of the TIP cases*”.<sup>85</sup> Other obstacles mentioned were: (i) a lack of implementation of the Federal Criminal Procedural Code in the judiciary system;<sup>86</sup> and (ii) a lack of clear statistics, such as whether victims were re-trafficked.<sup>87</sup>

## Particulars of determinants by type of response

The interviewees failed to identify differences in the determinants in relation to the type of response.

However, political will was raised as a common and main determinant behind anti-trafficking responses, which in turn determines priority in resource allocation and awareness.<sup>88</sup> In this regard, there is seemingly an interest in victim protection, as two interviewees highlighted.<sup>89</sup> For example, the recent enactment of a law in Tucumán guaranteed that 1% of the labour positions in the State would be occupied by victims of trafficking in persons.<sup>90</sup> Similar regional legislation was also introduced in Catamarca.<sup>91</sup> Finally, there is a recent commitment by the

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<sup>79</sup> PROTEX, “El Testimonio de la Víctima de Trata de Personas” (*Ministerio Público Fiscal*, 2016) <<https://www.fiscales.gob.ar/wp-content/uploads/2016/07/Protex-Testimonio-V%C3%ADctima-Trata.pdf>> accessed 10 October 2021, 11, 14.

<sup>80</sup> Interviewee AR01; Interviewee AR02; Interviewee AR04; Interviewee AR05; Interviewee AR06; Interviewee AR08; Interviewee AR09.

<sup>81</sup> Interviewee AR01.

<sup>82</sup> Interviewee AR03.

<sup>83</sup> Interviewee AR02; Interviewee AR03.

<sup>84</sup> Interviewee AR02; Interviewee AR05; Interviewee AR11bis.

<sup>85</sup> Interviewee AR11.

<sup>86</sup> Interviewee AR04.

<sup>87</sup> Interviewee AR05; Interviewee AR11bis.

<sup>88</sup> Interviewee AR08.

<sup>89</sup> Interviewee AR07; Interviewee AR08.

<sup>90</sup> “San Miguel de Tucumán Votó el Cupo Laboral Obligatorio para Víctimas Rescatadas de la Trata” (*Government of Argentina*, 2021) <<https://www.argentina.gob.ar/noticias/san-miguel-de-tucuman-voto-el-cupo-laboral-obligatorio-para-victimas-rescatadas-de-la-trata>> accessed 07 November 2021.

<sup>91</sup> “En Catamarca es Ley la Inserción Laboral para Víctimas de Trata” (*Government of Argentina*, 2021)

Ministry of Territorial Development and Habitat, through a framework agreement, to ensure that victims of human trafficking are guaranteed access to housing.<sup>92</sup>

Another interviewee highlighted that the State has adopted a 'punitive model' of prosecution, in which higher rates of punishment are indicative of systemic efficacy.<sup>93</sup> According to the same interviewee, addressing the other principles of anti-trafficking, the determinant underlying prevention and protection is the obligation to comply with international obligations.<sup>94</sup>

Finally, another interviewee expressed that prevention and prosecution are within the jurisdiction of various state institutions: prevention is the responsibility of the executive (including programs of prevention, workshops, and protocols directed to law enforcement officials), while prosecution falls within the jurisdiction of the judiciary. Hence, the determinants are different, since the judicial power is unconcerned with international reputation, given that the importance of improvements to its ranking by any international organisation pales in comparison to delivering 'good' judicial cases.<sup>95</sup>

## Particulars of determinant by form of exploitation

According to reported statistics on the incidence of trafficking, the main forms of exploitation in Argentina are sexual and labour exploitation.<sup>96</sup> Accordingly, the interviewees focused on the determinants behind these two types of exploitation.

Some interviewees considered how sexual exploitation has greater visibility and how this impacts upon relevant determinants.<sup>97</sup> For example, the efforts of the feminist movements, civil society and social media have resulted in sexual exploitation having a greater presence in the public consciousness.<sup>98</sup> In this sense, and in comparison, labour exploitation can be considered a more 'hidden' crime.

The (in)visibility of labour exploitation has also been connected to the lack of a 'landmark case' on labour exploitation, which in turn impacts upon the adequacy of anti-trafficking responses.<sup>99</sup> However, another interviewee disagreed, contesting the non-existence of landmark cases on

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<<https://www.argentina.gob.ar/noticias/en-catamarca-es-ley-la-insercion-laboral-para-victimas-de-trata>> accessed 07 November 2021.

<sup>92</sup> "Se Firmó el Convenio para el Estatuto Especial de Acceso a la Vivienda Destinado a Víctimas de Trata" (*Government of Argentina*, 2021)

<<https://www.argentina.gob.ar/noticias/se-firmo-el-convenio-para-el-estatuto-especial-de-acceso-la-vivienda-destinado-victimas-de>> accessed 07 November 2021.

<sup>93</sup> Interviewee AR05.

<sup>94</sup> Interviewee AR02.

<sup>95</sup> Ibid.

<sup>96</sup> "En Once Años Hubo 405 Sentencias en Todo el País por Trata de Personas" (*Fiscales*, 2020) <<https://www.fiscales.gob.ar/trata/en-once-anos-hubo-405-sentencias-en-todo-el-pais-por-trata-de-personas/>> accessed 10 October 2021.

<sup>97</sup> Interviewee AR01; Interviewee AR04; Interviewee AR11bis; Interviewee AR14; Interviewee AR15.

<sup>98</sup> Interviewee AR01; Interviewee AR04; Interviewee AR 14.

<sup>99</sup> Interviewee AR01.

labour exploitation,<sup>100</sup> referring to the burning of the textile workshop of Luis Viale.<sup>101</sup> On the same matter, other interviewees suggested that the *Verón* case was a key determinant for explaining the importance attached to sexual exploitation over labour exploitation.<sup>102</sup>

Another difference is the cultural factor attached to the crime of human trafficking for labour exploitation. This leads victims to normalize their exploitation and not be able to self-identify as victims,<sup>103</sup> which in turn prevents them filing complaints. This cultural factor also results in resistance from State organs towards defining certain situations of labour exploitation as human trafficking.

There is also another factor influencing the prosecution of sexual exploitation matters, which is the abolitionist approach to prostitution.<sup>104</sup> Argentina is an abolitionist state, where only autonomous prostitution is legal. Consequently, any person owning or operating a brothel and/or living off the profits of sex work, including benefitting economically from the sexual exploitation or prostitution of a third party, is subject to criminal charges. Accordingly, cases at the intersection of human trafficking and sexual exploitation are more easily identifiable.

Finally, the interviewees referred to determinants behind the non-recognition of two other types of exploitation that are less common but still present in Argentina, namely the purpose of forced criminality and the illegal adoption of minors. With regards to the first, the main reason this type of exploitation eludes greater recognition seems to be the State's overriding interest in combatting drug trafficking.<sup>105</sup> Indeed, recognizing a 'mula' as a victim of human trafficking would set a precedent of impunity for a participant in the illicit drug trade.<sup>106</sup> However, recent judicial decisions have acquitted 'mulas' who were identified as having been trafficked.<sup>107</sup> Furthermore, the Public Ministry of Defence recently requested an amendment to Law 23.737, to explicitly criminalize the illicit possession and trafficking of drugs, and to further include language enshrining the non-punishment principle, particularly given the overlap between victims participating in the drug trade and victims of human trafficking.<sup>108</sup> Another determinant mentioned behind this oversight was corruption and tolerance of this crime.<sup>109</sup>

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<sup>100</sup> Interviewee AR07.

<sup>101</sup> "Incendio en el Taller Clandestino de Luis Viale: la Fiscalía Pidió 13 Años de Prisión para los dos Imputados" (*Fiscales*, 2016) < <https://www.fiscales.gob.ar/fiscalias/incendio-en-el-taller-clandestino-de-luis-viale-la-fiscalia-pidio-13-anos-de-prision-para-los-dos-imputados/>> accessed 07 November 2021.

<sup>102</sup> Interviewee AR05.

<sup>103</sup> Interviewee AR02; Interviewee AR03; Interviewee AR08; Interviewee AR 14; Interviewee AR16.

<sup>104</sup> Interviewee AR03; Interviewee AR04, Interviewee AR05.

<sup>105</sup> Interviewee AR02; Interviewee AR03.

<sup>106</sup> Interviewee AR03.

<sup>107</sup> For example: Martínez Hassan and Lourdes Silvana, "Sobresayeron a Cuatro Personas Utilizadas Como "Mulas" e Imputaron a dos Hombres por Trata de Personas con Fines de Explotación" (*Fiscales*, 2 October 2019) <<https://www.fiscales.gob.ar/trata/sobresayeron-a-cuatro-personas-utilizadas-como-mulas-e-imputaron-a-dos-hombres-por-trata-de-personas-con-fines-de-explotacion/>> accessed 10 October 2021.

<sup>108</sup> "El MPD Planteó ante el Senado la Necesidad de la Reforma de la Ley de Drogas" (*Ministerio Público de la Defensa*, 2019) <<https://www.mpd.gov.ar/index.php/noticias-feed/5175-el-mpd-planteo-ante-el-senado-la-necesidad-de-la-reforma-de-la-ley-de-drogas>> accessed 10 October 2021.

<sup>109</sup> Interviewee AR02.

Anti-trafficking legislation also fails to address the illegal adoption of minors. One of the interviewees stated that non-recognition of this form of exploitation is related to government corruption, along with a lack of political will.<sup>110</sup>

## Particulars of determinants according to trafficked persons' profile

Overall, the victim profile does not have a noticeable impact on the applicable determinants, and vice versa. Nevertheless, and following the previous section, some of the determinants behind the forms of exploitation might influence the determinants of identifying victims. Accordingly, and as explained before, the fact that there is a cultural factor preventing victims of trafficking for labour exploitation from identifying themselves as victims, together with resistance from the State to recognize them as victims, might have an impact on the adequate identification of victims of this type of exploitation. This can also be related to what two interviewees argued, in that there is a victim archetype, and when a victim does not fit that idealized form, it is difficult to identify them as a victim.<sup>111</sup> This assumption is particularly problematic for transsexual victims, who are rarely identified as victims of human trafficking, and therefore face greater barriers in accessing support and resources.<sup>112</sup>

Furthermore, different interviewees expressed that transsexual individuals are particularly vulnerable to exploitation and trafficking.<sup>113</sup> For example, transsexual Argentinians can be forced into the drug trade, including selling drugs on the streets, along with being subject to sexual exploitation.<sup>114</sup> Considering that human trafficking for the purpose of forced criminality is not recognized (as described above in section 4.1.2), the concern is that trans victims will not be recognized as such, and might even be persecuted or further marginalized.

Another interviewee expressed that there may be preferential treatment for certain victims who are in a particularly urgent situation.<sup>115</sup> That is to say, the State may prioritize the rapid protection and assistance of a victim that needs immediate attention.

A further difference seems to be the immigration status of victims, where victims who are migrants or non-citizens must rely on other resources/alternatives for support (for example, INTERPOL or the Ministry of Foreign Affairs).<sup>116</sup> These alternatives are not necessarily barriers, because the relevant actors or sources often have better coordination, meaning that the assistance provided to migrant victims may be more comprehensive (or may be provided sooner).<sup>117</sup>

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<sup>110</sup> Interviewee AR12.

<sup>111</sup> Interviewee AR06; Interviewee AR11 bis.

<sup>112</sup> Interviewee AR11.

<sup>113</sup> Interviewee AR02.

<sup>114</sup> Interviewee AR02.

<sup>115</sup> Interviewee AR03.

<sup>116</sup> Interviewee AR03; Interviewee AR11 bis.

<sup>117</sup> Interviewee AR11 bis. Similarly, Interviewee AR16.

## Particulars of determinants according to perpetrator profile

Overall, there is no conclusive difference in anti-trafficking determinants based on perpetrator profile. However, there are two notable features which are likely contributory to the greater anti-trafficking context.

The perpetrator's position in the trafficking chain can impact upon their treatment. The presence of a female perpetrator in the lowest stages of the exploitative chain usually raises questions about whether the non-punishment principle should be applied, in accordance with Article 5 of Law 26.364.<sup>118</sup> During the first years of the enactment of anti-trafficking laws in Argentina, cases of human trafficking used to focus on particular segments of the trafficking chain, specifically women operating brothels.<sup>119</sup> However, this prosecution fails to apply the non-punishment principle, which would require further consideration of the lived experiences of these women to determine whether they were victims that were 'promoted' to the position of brothel administrators as connected to the greater structures of exploitation. Accordingly, the presence of a women in a subordinate position in the larger exploitative chain raises greater questions about the potentially gendered application of this principle. Specifically, the same interviewee also mentioned that, in cases of labour exploitation, there has been analysis of men who occupy the equivalent lowest positions of the exploitative chain (such as the figure of the person running the textile workshop), to consider whether these men may actually be victims, so that the non-punishment principle would be applied.

Conversely, other interviewees concluded that there is more resistance and 'reproval' in the justice system towards female perpetrators.<sup>120</sup> In particular, an interviewee expressed that "*the system is 'harder' when the perpetrator is a woman*".<sup>121</sup> Similarly, another interviewee expressed that there is an overarching stereotype, where women – and mainly trans women – are subject to a confirmation bias of being more vulnerable to criminalization and therefore are more often the subjects of complaints.<sup>122</sup>

Secondly, Argentina currently does not prosecute legal entities who participate in or facilitate trafficking and/or exploitation. This gap in punishment was attributed to existing state corruption, along with underlying economic concerns and political interests, in explaining why organizations (as opposed to individuals) are currently not prosecuted under criminal law.<sup>123</sup>

## Particulars of determinants by type of trafficking

Further, there seems to be no difference in the determinants based on the type of trafficking. However, different interviewees highlighted that both the approaches to cases and applicable

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<sup>118</sup> Interviewee AR03.

<sup>119</sup> Ibid.

<sup>120</sup> Interviewee AR06; Interviewee AR11bis. Similarly, AR15.

<sup>121</sup> Interviewee AR06.

<sup>122</sup> Interviewee AR08.

<sup>123</sup> Interviewee AR03.

organisations involved can vary depending on the circumstances of the matter.<sup>124</sup> For example, when victims from other Latin-American countries are exploited in Argentina and/or when victims from Argentina are exploited in Latin-America, members of REDTRAM along with different offices of the Ministry of Foreign Affairs may intervene. Further, IOM – which has an office in Argentina – was also recognized as a key actor by different interviewees.<sup>125</sup> Amongst its competencies, IOM delivers training and assistance to victims in their reintegration into society.<sup>126</sup>

## Particulars of determinants by stage of response

The determinants seem to vary in accordance with the stage of the response, particularly regarding the following stages.

A main determinants behind the acknowledgment and prioritization of trafficking as a policy issue are landmark judgments, such as the *Verón* case, combined with the role of civil society organizations and the support of the media. One interviewee argued that *Verón* helped to publicize the larger issue, to put a face to the crime of human trafficking, and to bring the issue of human trafficking into the public discourse.<sup>127</sup> In this sense, the case provides a gap-filling measure for international conventions, which usually lack effective means to raise awareness on important topics.<sup>128</sup> As another interviewee expressed, the *Verón* matter was the “*great force that raised awareness*” of trafficking in Argentina.<sup>129</sup> However, different interviewees concluded that human trafficking has lost its central position in the public agenda, which is now occupied by other interests such as the fight against drugs.<sup>130</sup>

Another determinant behind the acknowledgement and prioritization of anti-trafficking initiatives is the role of international organizations, as they help to establish the criminal offence of trafficking in persons as a public problem.<sup>131</sup> Indeed, the legislative debates for Law 26.364 mentioned statistics published by international organizations such as UNODC, IOM and ILO.<sup>132</sup>

Legislative responses in Argentina depend on a wide variety of determinants. The adoption of legislation, as demonstrated by the legislative debates for the main laws on human trafficking in Argentina (Law 26.364, Law 26.842 and Law 27.508), relies upon the main determinants of: (i) landmark cases; (ii) the role of civil society and the means of communication; (iii) the international legal framework; (iv) the international reputation of the State; and (v) the adoption of a victim-centred approach. As an interviewee explained, the legislative actions were

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<sup>124</sup> Interviewee AR03.

<sup>125</sup> “OIM en Argentina” (*International Organisation of Migration*, 2021) <[http://argentina.iom.int/co/OIM\\_en\\_Argentina](http://argentina.iom.int/co/OIM_en_Argentina)> accessed 10 October 2021.

<sup>126</sup> “Lucha Contra el Tráfico y la Trata de Personas” (*International Organisation of Migration*, 2021) <<http://argentina.iom.int/co/lucha-contra-el-trafico-y-la-trata-de-personas>> accessed 10 October 2021.

<sup>127</sup> Interviewee AR04.

<sup>128</sup> Interviewee AR04.

<sup>129</sup> Interviewee AR08.

<sup>130</sup> Interviewee AR01; Interviewee AR04; Interviewee AR11; Interviewee AR13.

<sup>131</sup> Interviewee AR11bis.

<sup>132</sup> Legislative Debates, Cámara de Senadores/as, 30ta Reunión, 27a Sesión Ordinaria, 6 December 2006, 65. [personal translation]

“propelled by particular cases that alert the society” (including the *Verón* matter), which is augmented by the role of the media.<sup>133</sup>

The construction of institutions exists in a concurrent relationship with the legislation itself, which has established the creation of two main institutions in the fight against trafficking in persons (the Executive Committee and the Federal Council).<sup>134</sup> The international reputation of the State is also a key factor, in that the annual reports published by the U.S. State Department have influenced the establishment of specialized anti-trafficking institutions.<sup>135</sup> Similarly, the monitoring role of international organisations also emerges as a determinant, as an interviewee expressed that the creation of specialized organisations represents the “*need to show international organisms that monitored Argentina that this State was doing something to fight TIP*”.<sup>136</sup> Finally, two interviewees highlighted political will as a key determinant,<sup>137</sup> particularly impacting upon resource allocation and capacity building.<sup>138</sup>

Finally, the implementation and enforcement of anti-trafficking law, policy and practice by specialized state organisations can be contingent on good governance, or as generally identified by the interview participants, can require the presence of ‘good personalities’ in charge.<sup>139</sup> In this sense, the positive measures implemented by specialized institutions stem from good leadership, looking to the persons in charge of said institution(s).

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<sup>133</sup> Interviewee AR08.

<sup>134</sup> Interviewee AR08; Interviewee AR15.

<sup>135</sup> Interviewee AR11bis.

<sup>136</sup> Interviewee AR08.

<sup>137</sup> Interviewee AR14; Interviewee AR15.

<sup>138</sup> Interviewee AR08.

<sup>139</sup> Interviewee AR04; Interviewee AR05; Interviewee AR08.

# Focus: Law 26.842

Law 26.842 amended the offence of human trafficking, as previously defined by Law 26.364. In particular, the law eliminated the element of means as a suggested circumstance where victims of human trafficking are consenting to their own exploitation. Law 26.842 also created the Executive Committee and the Federal Council, two institutions responsible for, *inter alia*, the promotion of victim protection policy and preventative measures. In particular, the Federal Council provided a centralized hub for coordination between all of the different provinces in Argentina, streamlining communication and allowing for policy to be developed and implemented in a standard and federalized way. There was a consensus among interviewees that the enactment of Law 26.842 was a key development in Argentina.<sup>140</sup>

## Determinants

The main determinants of this improvement are: (i) the decision rendered in *Verón*; (ii) the role of civil society organizations; and (iii) the role of social media.

Law 26.842 was enacted in an extraordinary session held by the legislative power in December 2012.<sup>141</sup> The legislation was brought into force only days after the Criminal Tribunal in Tucumán ordered the acquittal of 13 defendants charged with human trafficking in *Verón*.<sup>142</sup> During the legislative drafting process, different members of Parliament identified *Verón* as the main motive for enacting the law. For example, one parliamentarian expressed:

*The fact that we are accompanying the half sanction from the Senate, which is in this organism since August last year, clearly evinces the time that was lost and that it is only considered as a need right now, when we have this scandalous and painful judicial cause of Marita Verón in Tucumán (...).*<sup>143</sup>

Another member said that *Verón* “provoked that we are all here today, as it was able to put in the public agenda a topic that was being demanded since more than one year and a half”, referring to the amendments in Law 26.364.<sup>144</sup> Similarly, different interviewees foregrounded this judicial decision as the main determinant of Law 26.842.<sup>145</sup>

The pressure exercised by civil society at large drove the enactment of Law 26.842.<sup>146</sup> As one of the members of Parliament said during the legislative debates:

*...there is a recognition that the non-governmental organizations, for example with the case of Marita Verón in Tucuman, are the ones that have been revealing these facts*

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<sup>140</sup> Interviewee AR01; Interviewee AR02; Interviewee AR03; Interviewee AR06; Interviewee AR09; Interviewee AR10; Interviewee AR15; Interviewee AR16.

<sup>141</sup> “Caso Marita Verón: el Tribunal Absolvió a Todos los Acusados” (*Centro de Información Judicial*, 11 December 2012) <<https://www.cij.gov.ar/nota-10440-Caso-Marita-Ver-n--el-tribunal-absolvi--a-todos-los-acusados.html>> accessed 10 October 2021.

<sup>142</sup> *Ibid.*

<sup>143</sup> Legislative Debates, Cámara de Diputados/as, 23ª Reunión, 1ra Sesión Extraordinaria, 19 December 2012, 42.

<sup>144</sup> *Ibid.*, 43.

<sup>145</sup> Interviewee AR03; Interviewee AR07; Interviewee AR08; Interviewee AR13; Interviewee AR15; Interviewee AR16.

<sup>146</sup> Interviewee AR03.

*since a long time ago. Undoubtedly, the political power starts to incorporate these problems that are installed by non-governmental organizations.*<sup>147</sup>

Another member echoed this sentiment, expressing that he was “*convinced that these types of legislations are owed to the mobilization of non-governmental organizations*”.<sup>148</sup>

The media also played an important role in enacting Law 26.842,<sup>149</sup> where the publication of this decision was given attention-grabbing headlines such as: “*Argentina: unexpected outcome in the case Marita Verón*”<sup>150</sup> or “*Shock: no guilty persons in the criminal proceeding for Marita Verón*”.<sup>151</sup> The media also provided a platform for Susana Trimarco, the mother of the victim, who in turn used the opportunity to highlight the injustice of the Criminal Tribunal’s poor decision.<sup>152</sup> There was also media coverage of protests and demonstrations after the Verón decision was released,<sup>153</sup> which enforced a cyclical relationship, ensuring that the case captured public interest while at the same time putting pressure on the State to address and ameliorate the ongoing systemic failures.

## Concerns linked to Law 26.842

The elimination of means in Law 26.842 also presents a point of concern.<sup>154</sup> One of the problems is how the legislation, as drafted, potentially increases the risk of wrongful conviction, since there is a lack of clear definition in the legislative language.<sup>155</sup> Another issue is how sex work is treated as synonymous with exploitation. As a consequence of criminalization, there have been ancillary impacts exacerbating vulnerabilities for sex workers, including preventing the formation of trade unions of sexual workers, or placing cis and trans women in further jeopardy when attempting to solicit clients in public spaces or roadways.<sup>156</sup> As one interviewee expressed, the elimination of the means element meant that Argentina “*closed the door*” to sex workers’ rights and advocacy.<sup>157</sup>

The U.S. State Department also expressed concern about the impact of the elimination of means as an essential element of the crime of human trafficking. The U.S. State Department specifically recommended that Argentina should “*revise the human trafficking law to make*

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<sup>147</sup> Legislative Debates, Cámara de Senadores/as, 10ma Reunión, 8va Sesión Ordinaria, 31 August 2011, 41-42. [personal translation]

<sup>148</sup> Ibid, 43. [personal translation]

<sup>149</sup> Interviewee AR13.

<sup>150</sup> “Argentina: Desenlace Inesperado en el Caso Marita Verón” (BBC, 11 December 2012) <[https://www.bbc.com/mundo/noticias/2012/12/121211\\_argentina\\_marita\\_veron\\_parana\\_prostibulos\\_v](https://www.bbc.com/mundo/noticias/2012/12/121211_argentina_marita_veron_parana_prostibulos_v)> accessed 10 October 2021.

<sup>151</sup> José Ignacio Sbrocco, “Conmoción: sin Culpables en el Juicio por Marita Verón” (La Nación, 12 December 2012) <<https://www.lanacion.com.ar/sociedad/conmocion-sin-culpables-en-el-juicio-por-marita-veron-nid1536071/>> accessed 10 October 2021.

<sup>152</sup> Interviewee AR02.

<sup>153</sup> “Argentina sees protests after Marita Veron verdict” (BBC, 13 December 2012) <<https://www.bbc.com/news/world-latin-america-20705751>> accessed 10 October 2021.

<sup>154</sup> Interviewee AR04; Interviewee AR11; Interviewee AR11bis.

<sup>155</sup> Interviewee AR04; Interviewee AR06.

<sup>156</sup> Agustina Iglesias Skulj, “La Trata de Personas en el Contexto Latinoamericano: La Protección de los Derechos Humanos de las Mujeres bajo un Paradigma Securitario” (Instituto de Estudios Comparados en Ciencias Penales y Sociales, 2018) <<https://inecip.org/wp-content/uploads/Sistemas-Judiciales-22-IglesiasSkulj.pdf>> accessed 10 October 2021, 20. Similarly: Amnesty International, “What I’m Doing is not a Crime: the Human Cost of Criminalizing Sex Work in the City of Buenos Aires, Argentina” (Amnesty International, 2016) <<https://www.amnesty.org/es/documents/amr13/4042/2016/es/>> accessed 10 October 2021, 22.

<sup>157</sup> Interviewee AR06; Interviewee AR08.

*force, fraud, or coercion essential elements of the crime, rather than aggravating factors, as established under the 2000 UN TIP Protocol”.*<sup>158</sup>

## **Relevance of these examples as representative of broader determinants**

The enactment of Law 26.842 is a clear example of how key determinants of anti-trafficking efforts work in Argentina. As explained, the enactment of this law – approved in an Extraordinary Session – was mainly motivated by a criticized decision in which traffickers were acquitted, together with pressure exercised by civil society and social media condemning this decision and campaigning for justice. This law also evinces the importance of political will, which in this case acknowledged the claim from society and enacted the necessary modification of the crime of human trafficking.

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<sup>158</sup> “2021 Trafficking in Persons Report: Argentina” (U.S. Department of State, 2021) <<https://www.state.gov/reports/2021-trafficking-in-persons-report/argentina/>> accessed 10 October 2021.

# Focus: Law 27.508

Law 27.508, enacted in 2019 and regulated by Decree 844/2019,<sup>159</sup> creates a fund supported by civil seizures of objects confiscated in human trafficking and exploitation convictions along with any money laundering associated with and originating from such cases. This law also obliges judges and prosecutors to pursue financial investigations to ensure the reparation of human trafficking victims in Argentina. This law was proposed by the Executive Committee, which elaborated a law proposal through its periodic meetings in 2018.<sup>160</sup> The creation of the fund was already contemplated in Article 27 of Law 26.842, but it was not created until the enactment of this specific law. Different interviewees agreed that this is a key development in Argentina.<sup>161</sup>

## Determinants

There main determinants of this improvement are: (i) the *Montoya* case (jurisprudence); (ii) the international law framework; and (iii) the adoption of a victim-centred approach.

In *Montoya*, the Tribunal convicted three persons for the crime of human trafficking for sexual exploitation, and further found the municipality failed to meet its due diligence obligations, as enshrined in international human rights conventions. Additionally, because the victim filed a civil action in the framework of the criminal proceeding, she was awarded compensation. As the legislative debates demonstrate, this case evinced the lack of compensation for victims of this crime in Argentina. Indeed, a member of parliament expressed that, from the current 1,250 victims of human trafficking in Argentina, “*only one was able to obtain an integral redress, which evinces the gravity of the situation*”.<sup>162</sup>

Furthermore, this law was motivated by the international legal framework.<sup>163</sup> Indeed, the legislative debates mention the importance of complying with obligations under international law with regards to reparations, mainly under the international human rights law framework. In addition, one of the recitals from the law expresses: “*There are international conventions ratified by the Argentinean Republic and different recommendations from international organisms that contemplate the need to take measures to conserve and preserve seized assets in the framework of criminal proceedings (...)*.” It is also important to mention that the international legal framework was also considered in *Montoya*, mainly the American Convention on Human Rights and CEDAW.

Finally, the adoption of a victim-centred approach as a determinant is evinced in legislative debates. For example, one member of Parliament highlighted that this law ensured that victims access compensation without further revictimization.<sup>164</sup> Another member expressed that “*the*

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<sup>159</sup> Decree 844/2019, 6 December 2019 <<https://www.argentina.gob.ar/normativa/nacional/decreto-844-2019-332992/texto>>

<sup>160</sup> “Ingresó al Congreso un Proyecto de Ley que Crea un Fondo para Asistir a Víctimas de Trata y Explotación de Personas” (*Fiscales*, 19 October 2018) <<https://www.fiscales.gob.ar/trata/ingreso-al-congreso-un-proyecto-de-ley-que-crea-un-fondo-para-asistir-a-victimas-de-trata-y-explotacion-de-personas/>> accessed 10 October 2021.

<sup>161</sup> Interviewee AR03; Interviewee AR15.

<sup>162</sup> Legislative Debates, Cámara de Senadores/as, 6a Reunión, 3a Sesión Especial, 22 May 2019, 27.

<sup>163</sup> Interviewee AR03.

<sup>164</sup> Legislative Debates, Cámara de Diputados/as, 5a Reunión, 5a Sesión Ordinaria, 26 June 2019, 34.

*main aim must be the redress of one of the most traumatic experiences a woman can live, and to contribute to the personal empowerment of the victims (...)*.<sup>165</sup>

## Concerns linked to Law 27.508

Some interviewees expressed concern in relation to the actual positive change that Law 27.508 will promote. Since the fund will be composed by the elements seized in the framework of judicial decisions, but the elements seized tend to be few or even none, it is not clear whether it will be enough to compensate and redress victims.<sup>166</sup> Another concern is that there is a lack of patrimonial investigations and a lack of knowledge on how to conduct adequate patrimonial investigations.<sup>167</sup>

## Relevance of these examples as representative of broader determinants

Law 27.508 evinces the role that landmark cases, the international legal framework, and the adoption of a victim-centred approach have had in Argentina as determinants for the development of key anti-trafficking policies. Furthermore, it is a clear example of the positive work that can be achieved by a federalized institution that is also composed of NGOs and international organizations. This was recognized in legislative debates, where one member of Parliament highlighted the pivotal role the Executive Committee had in the enactment of the law, celebrating that it is an organ where *“all the provinces are represented”* and which is also composed of NGOs, which provide a *“very sensible view to approach this topic”*.<sup>168</sup>

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<sup>165</sup> Legislative Debates, Cámara de Senadores/as, 6a Reunión, 3a Sesión Especial, 22 May 2019, 22.

<sup>166</sup> Interviewee AR01; Interviewee AR04.

<sup>167</sup> Interviewee AR04.

<sup>168</sup> Legislative Debates, Cámara de Senadores/as, 6a Reunión, 3a Sesión Especial, 22 May 2019, 22. [personal translation]

# COVID-19

## Impact on anti-trafficking efforts

In response to the COVID-19 pandemic, the President of Argentina issued Decree 260/2020 establishing quarantine measures.<sup>169</sup> The COVID-19 pandemic had a combined impact of increasing incidents of human trafficking, which was only exacerbated by the national lockdown and pandemic restrictions.<sup>170</sup>

As different interviewees recognized, the COVID-19 pandemic and the lockdown measures restricted anti-trafficking efforts in Argentina.<sup>171</sup> As explained by one of the interviewees: *“The fight against human trafficking is a work that requires physical presence; the fact that, out of sudden, everything was virtual created a movement in the structures that for TIP was pivotal, as opposed to other areas”*.<sup>172</sup>

In the beginning, there was a decrease in the number of reported cases of human trafficking, as published in the PROTEX report on the 145 Line hotline during pandemic-related restrictions.<sup>173</sup> In this sense, there were calls for the State to play a more active role in combatting human trafficking during and in the aftermath of the COVID-19 pandemic.<sup>174</sup>

The pandemic also shifted the State’s attention away from trafficking in persons to other areas related to the public health crisis.<sup>175</sup> For example, security forces were charged with enforcing quarantine restrictions, which, consequently, decreased resources available to investigate and detect cases of human trafficking.<sup>176</sup> The closure of schools also created a significant barrier, because schools are a central site for the identification and detection of trafficking in persons.<sup>177</sup> In addition, there were further investigative difficulties, including limits on initiating raids or similar police interventions.<sup>178</sup> Victim assistance also faced significant setbacks, along with additional barriers in obtaining evidence and/or testimony from human trafficking survivors.<sup>179</sup>

Furthermore, different interviewees raised how the restrictions increased the pre-existing vulnerability of marginalized communities.<sup>180</sup> For example, women and children were forced

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<sup>169</sup> Decree 260/2020, 12 March 2020 <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335423/norma.htm>>

<sup>170</sup> For example: “The Effects of the Covid-19 Pandemic on Trafficking in Persons and Responses to the Challenges” (*United Nations Office of Drugs and Crime*, 8 July 2021) <[https://www.unodc.org/documents/human-trafficking/2021/The\\_effects\\_of\\_the\\_COVID-19\\_pandemic\\_on\\_trafficking\\_in\\_persons.pdf](https://www.unodc.org/documents/human-trafficking/2021/The_effects_of_the_COVID-19_pandemic_on_trafficking_in_persons.pdf)> accessed 10 October 2021.

<sup>171</sup> Interviewee AR02; Interviewee AR03; Interviewee AR06; Interviewee AR10; Interviewee AR11.

<sup>172</sup> Interviewee AR03.

<sup>173</sup> PROTEX, “Reporte de casos ingresados en la línea 145 durante el período de Aislamiento Social Preventivo y Obligatorio” (*Ministerio Público Fiscal*, 2020) <[https://www.mpf.gob.ar/protex/files/2020/08/Protex-informe-impacto\\_Covid.pdf](https://www.mpf.gob.ar/protex/files/2020/08/Protex-informe-impacto_Covid.pdf)> accessed 10 October 2021, 5.

<sup>174</sup> Interviewee AR04; Interviewee AR08; Interviewee AR14.

<sup>175</sup> Interviewee AR06.

<sup>176</sup> Interviewee AR03; Interviewee AR14.

<sup>177</sup> Interviewee AR03; Interviewee AR06.

<sup>178</sup> Interviewee AR02; Interviewee AR03; Interviewee AR11.

<sup>179</sup> Interviewee AR02; Interviewee AR03.

<sup>180</sup> Interviewee AR03; Interviewee AR06; Interviewee AR09; Interviewee AR14.

to remain in situations of domestic violence.<sup>181</sup> The pandemic also increased poverty and unemployment, putting more individuals at risk of exploitation to provide means for survival. Similarly, the pandemic increased the incidence of child labour and exploitation in Argentina.<sup>182</sup>

In addition, the crime of human trafficking has evolved in response to the pandemic (and its restrictions). Specifically, traffickers have adapted to the pandemic and found new ways to commit trafficking in persons.<sup>183</sup> For example, the sex trade relies on the internet to now operate through online channels, which has obstructed the detection of cases.<sup>184</sup> Another example is how cases of ‘grooming’<sup>185</sup> started to appear more frequently than before the pandemic.<sup>186</sup>

Regardless of these mounting difficulties, Argentina has seemingly attempted to adapt its anti-trafficking efforts to the current context. For example, the State implemented protocols with socially distanced and public health compliant guidance on how to rescue victims,<sup>187</sup> and the Rescue Programme adapted its services to continue delivering support and assistance throughout the pandemic.<sup>188</sup> In addition, the State prioritized the vaccination of members of anti-trafficking initiatives,<sup>189</sup> officially recognizing them as essential workers.<sup>190</sup> Furthermore, the State made genuine efforts to escalate its work and ensure adequate protection for victims along with punishment of trafficking in persons cases.<sup>191</sup> To that end, one interviewee highlighted how the State repatriated ten victims during the COVID-19 pandemic.<sup>192</sup>

Surprisingly, there were also benefits from the COVID-19 pandemic. Two interviewees highlighted that the pandemic reinforced the need for, and ensured actual cooperation between, different federal institutions and provinces.<sup>193</sup> In addition, meetings organized by the Federal Council continued to be held, despite ongoing restrictions and a growing crisis, demonstrating the overall commitment to anti-trafficking efforts.<sup>194</sup> Further, the pandemic led to policy updates from REDTRAM. Prosecutors published a series of documents updated to meet pandemic standards and regulations: the Contingency Plan due to the COVID-19

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<sup>181</sup> Interviewee AR03.

<sup>182</sup> “1 de Cada 2 Niños, Niñas y Adolescentes que Trabajan Comenzó a Hacerlo Durante la Pandemia” (*International Labor Organization*, 21 May 2021) <[https://www.ilo.org/buenosaires/noticias/WCMS\\_793493/lang-es/index.htm](https://www.ilo.org/buenosaires/noticias/WCMS_793493/lang-es/index.htm)> accessed 10 October 2021.

<sup>183</sup> Interviewee AR08; Interviewee AR09.

<sup>184</sup> Interviewee AR06; Interviewee AR15.

<sup>185</sup> Grooming is punishable under Article 131 of the Criminal Code, incorporated through Law 26.904.

<sup>186</sup> Interviewee AR06; Interviewee AR08; Interviewee AR15.

<sup>187</sup> Interviewee AR02.

<sup>188</sup> “Más de 200 Víctimas de Trata Fueron Rescatadas Durante la Cuarentena” (*Ministry of Justice and Human Rights*, 30 July 2020) <<https://www.argentina.gob.ar/noticias/mas-de-200-victimas-de-trata-fueron-rescatadas-durante-la-cuarentena>> accessed 10 October 2021.

<sup>189</sup> Interviewee AR02.

<sup>190</sup> Interviewee AR14.

<sup>191</sup> Interviewee AR03.

<sup>192</sup> Interviewee AR13; Maria Alicia Alvado, “Repatriaron 10 Víctimas Argentinas de Trata de Seis Países desde el Inicio de la Pandemia” (*Telam*, 22 September 2020) <<https://www.telam.com.ar/notas/202009/517083-repatriaron-10-victimas-argentinas-de-trata-de-seis-paises-desde-el-inicio-de-la-pandemia.html>> accessed 10 October 2021.

<sup>193</sup> Interviewee AR07; Interviewee AR13.

<sup>194</sup> Interviewee AR13; “Se Realizó la Tercera Reunión Ordinaria del Comité Ejecutivo” (*Government of Argentina*, 30 June 2020) <<https://www.argentina.gob.ar/noticias/se-realizo-la-tercera-reunion-ordinaria-del-comite-ejecutivo>> accessed 10 October 2021.

Pandemic;<sup>195</sup> the Joint Declaration with the Network of Specialized Prosecutors of Corruption;<sup>196</sup> the REDTRAM Declaration on the Problems and Challenges during the COVID-19 Pandemic;<sup>197</sup> and the REDTRAM Declaration on Mixed Migratory Flows.<sup>198</sup>

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<sup>195</sup> “Plan de Contingencia por Covid-19”

(Asociación Ibero Americana de Ministerios Públicos, 2020) <<https://www.aiamp.info/index.php/redes-permanentes-aiamp/red-de-trata-de-personas/documentos/plan-de-contingencia-por-covid-19-redisenio-plan-trabajo-2020-de-la-redtram>> accessed 10 October 2021.

<sup>196</sup> “Declaración Conjunta REDTRAM-Red Fiscales contra la Corrupción de 30 Julio de 2020”

(Asociación Ibero Americana de Ministerios Públicos, 2020) <<https://www.aiamp.info/index.php/redes-permanentes-aiamp/red-de-trata-de-personas/documentos/declaracion-conjunta-redtram-red-fiscales-contra-la-corrupcion-de-30-julio-de-2020>> accessed 10 October 2021.

<sup>197</sup> “Declaración de REDTRAM sobre Problemas y Desafíos Durante la Pandemia por COVID-19” (Asociación Ibero Americana de Ministerios Públicos, 2020) <<https://www.aiamp.info/index.php/redes-permanentes-aiamp/red-de-trata-de-personas/documentos/declaracion-de-redtram-sobre-problemas-y-desafios-durante-la-pandemia-por-covid-19>> accessed 10 October 2021.

<sup>198</sup> “Declaración de la REDTRAM sobre Flujos Migratorios Mixtos, Versión en Inglés”

(Asociación Ibero Americana de Ministerios Públicos, 2020) <<https://www.aiamp.info/index.php/redes-permanentes-aiamp/red-de-trata-de-personas/documentos/declaracion-de-la-redtram-sobre-flujos-migratorios-mixtos-version-en-ingles>> accessed 10 October 2021.

# Conclusion

Argentina has taken significant steps to combat trafficking in persons. The combined effect of enacting legislative and policy, construction of specialized bodies, re-orienting its anti-trafficking ideology to incorporated victim-centered approaches and coordination/coalitions with international bodies and organizations have helped to realize the 4Ps of anti-trafficking principles: prevention, prosecution, protection and partnership.

Based on the information gathered for this Case Study, Argentina would likely benefit from a mix of maintaining and building upon its existing TIP efforts and initiatives.

Building upon its existing framework, Argentina should focus on supporting its specialized organisms, including the Federal Council and the Executive Committee. This attention should be further extended to external partnerships including those with International organisms, such as the ILO, IOM and UNODC.

Anti-trafficking efforts in Argentina still face clear barriers, which would benefit from further investigation and resources. The existing tools can be built upon to improve the implementation of policy, including addressing the lack of adequate training for the state officials and building better knowledge gathering to ameliorate the lack of data on TIP. A more challenging issue is addressing the rooted and systemic problems. In Argentina, this would include ensuring prosecution of cases that involve elements of state corruption, along with more comprehensive investigation of money laundering and the seizure of assets to ensure an adequate compensation.



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