

Legal Explainers

Argentine Republic

The Argentine Republic (henceforth, “Argentina”) is the second largest Latin American country and eighth largest country in the world. It is a federal republic (like the United States) and is divided into 23 provinces. It has one autonomous city, Buenos Aires, which doubles up as the federal capital. The provinces are distinct and separate, and can therefore make their own laws. However, local constitutions cannot contradict the Argentine Constitution.

The Constitution broadly states that every person has the fundamental right not to be discriminated on grounds of gender, sexual orientation, race, colour, etc. As every province can make its own law, there are varying levels of protection in each province for different acts of violence. The laws discussed below refer to the federal protection offered against gender based violence in Argentina.

Gender based violence in Argentina:

Is gender based violence common in Argentina?

Unfortunately, yes. Domestic violence, sexual harassment, street harassment, and *femicide* are some frequent acts of violence in Argentina. There are general penal provisions protecting women and children from physical and mental abuse but the Argentine Government passed an exclusive law only in 2009.

Gender based violence has been rampant in Argentina. As per a report published by the Permanent Assembly for Human Rights and Argentina’s Supreme Court, 254 women died from gender based violence in 2016 alone, which roughly translates to one death every 30 hours.

These brutal murders targeting women gave birth to a feminist movement created by journalists, artists, and activists in June 2015, called ***Ni Una Menos*** i.e., “Not One Less,” meaning, not one more woman will be lost to male violence.

This movement has not only received worldwide attention with branches in New York, Berlin, and Brazil (amongst others), but has also instigated government action in Argentina through the Plan for the Prevention, Assistance, and Eradication of Violence against Women announced in [2017](#).

What steps have been taken to increase protection against violence?

- 2009** The Comprehensive Law on the Prevention, Punishment, and Elimination of Violence against Women in their Interpersonal Relationships came into force in 2009 to protect women from violence and punish offenders.
- 2012** A modification (Crimes against Sexual Integrity) to the Argentine criminal code in 2012 made femicide a punishable offence. Femicide is the murder of a woman by a man who considers her to be his property and believes he is entitled to decide whether she the right to life or death.

2017 A law was proposed to punish street harassment (including catcalling) in Argentina. If approved, fines levied on offenders will go to the National Institute of Women to fund policies.

2017 The two-year Plan for the Prevention, Assistance, and Eradication of Violence against Women came into effect in 2017. The plan aims to implement 69 measures and 137 forms of action with the assistance of 50 organisations. Additionally, there will be more gender awareness courses in schools, and rehabilitation programmes for offenders.

[Constitution of the Argentine Nation, 1994](#)

The Argentine Constitution guarantees every citizen the right to justice, domestic peace, and the fundamental right to live with liberty, dignity, and equality. Each of the 23 Argentine provinces can pass its own constitution but they have to in compliance with the Argentine Federal Constitution.

Rights relevant in the context of protection against gender based violence and harassment are:

- The right to work in dignified and equal working conditions which includes equal pay for equal work (Article 14).
- The right to be free of slavery, torture, and cruel or inhumane treatment. The sale or purchase of a person is a crime (Article 15).

The Constitution as a whole promotes equality, disapproves gender discrimination, and advocates for national and international laws that increase protection for women and children.

Sexual Violence Laws under the [Argentine Penal Code, 1984](#)

Femicide:

What is femicide?

Femicide is defined as the killing of a woman or girl by a man on the basis of her gender. Under Article 80 of the Penal Code, if a man kills his female ascendant (mother, etc.), descendant (daughter, etc.), spouse, ex-spouse, or partner, he is guilty of femicide.

What is the punishment for femicide?

A man who commits the crime of femicide will be imprisoned for life.

Rape:

If there is anal, vaginal, oral-anal intercourse, or any other act where an object is inserted into a person's body, the offender will be punished by imprisonment for 6 to 15 years.

If the offender commits the offence of rape but also

- a. causes serious mental or physical damage to the victim;

- b. engages in sexual activity with any blood related family member (incest);
 - c. knows (s)he is a carrier of an STD;
 - d. sexually abuses a child with two or more people or uses a weapon; or
 - e. belongs to the police, security force, or is a person of authority
- (s)he will be imprisoned for 8 to 20 years (Article 119).

Prostitution:

Promotion of prostitution is punishable by imprisonment for 4 to 6 years, even if the victim consents to such prostitution (Article 125 bis).

The punishment will increase to imprisonment for 5 to 10 years if the offender is

- 1. deceitful, violent, fraudulent, intimidates, or threatens the victim by use of his/her authority;
- 2. a blood relative of the victim (incest); or
- 3. a public official, member of the security or police force (Article 126).

Economic exploitation of a prostitution victim is punishable by imprisonment for

- 1. 4 to 6 years, despite the victim's consent;
- 2. 5 to 10 years, if the offender uses deceitful, violent, or other forceful means, or the offender is a blood relative of the victim or is a person of authority;
- 3. 10 to 15 years, if the victim is a minor i.e., below 18 years of age (Article 127).

Trafficking:

A person who offers or facilitates the trafficking of a person within Argentina or from another country will be imprisoned for 4 to 8 years (Article 145 bis).

If the victim is threatened, deceived, subject to any violence, disabled, mentally unstable, or pregnant (amongst others), the offender will be imprisoned for 5 to 10 years (Article 145 ter).

Sexual Violence and Children:

Who is a minor in Argentina?

A minor refers to any person below the age of 18 years.

Child rape:

If a person threatens to or sexually abuses a child below 13 years of age, (s)he will be imprisoned for 6 months to 4 years (Article 119). Article 120 punishes the offender by imprisonment for 3 to 6 years if the child is above 13 but below 16 years of age.

The punishment will increase to 6 to 10 years of imprisonment if the offender causes mental or physical damage, carries an STD, etc. If the child victim dies, the offender will be imprisoned for life (Article 124).

Corruption of Minors:

Under Article 125, any person who promotes or assists the corruption of minors will be punished by imprisonment for 3 to 10 years. If the child is below 13 years of age, the penalty is imprisonment for 6 to 15 years.

Irrespective of the victim's age, if there is use of any violence, threat, abuse of authority, or intimidation, the punishment is imprisonment for 10 to 15 years.

Child Prostitution:

If a minor is forced into prostitution, the offender will be imprisoned for 10 to 15 years (Article 126).

Sexually explicit content:

If a person creates, publishes, distributes, or sells any material representing a minor engaged in sexually explicit activity, or portrays the child's genitalia mainly for sexual purposes, the offender will be imprisoned for 6 months to 4 years.

Making pornographic content accessible and available to children below 14 years of age is punishable by imprisonment for 1 month to 3 years (Article 128).

Child trafficking:

A person who offers or facilitates the trafficking of a minor within Argentina or across borders will be punished by imprisonment for 10 to 15 years.

[The Comprehensive Law on the Prevention, Punishment and Elimination of Violence against Women in their Interpersonal Relations, 2009](#) (henceforth, "The Comprehensive Law")

The main aim of the Comprehensive Law is to eliminate gender discrimination, protect women from violence, develop policies on violence against women, and offer assistance and justice to women who are victims of violence.

This law guarantees the rights recognised by the Convention for the Elimination of all forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child and Law. It includes the right to live without violence or discrimination, safety, education, health, the right to dignity, equal rights and opportunities for men and women.

What does "violence against women" mean?

Violence against women includes any behaviour which affects a woman's life, liberty, dignity, and integrity. It could be physical, psychological, sexual, or economic violence.

Physical violence refers to any act that causes pain or damage to a woman's body. *Psychological violence* is any emotional damage or mental cruelty by degrading, humiliating, insulting, or harassing a woman.

Sexual violence is the violation of a woman's right to make decisions about her sexual life. It does not necessarily require the violation of a woman's genitalia. This kind of violence could occur within a marriage (spousal rape), through forced prostitution, exploitation, slavery, and sexual abuse.

Economic violence includes an act that dispossesses a woman of her property, theft or destruction of personal documents, and payment of a lower salary to a woman for the same task done by a man (Articles 4 and 5).

Are there specific areas where women experience violence?

Article 6 of the Comprehensive Law has categorised areas of violence into domestic, institutional, labour, media, obstetric violence, and violence against reproductive freedom.

Domestic violence: Any violence against a woman by a family member who is related to her either through birth or marriage.

Institutional violence: This type of violence is inflicted upon a woman by people of authority, professionals, or agents belonging to a public institution such as political parties, trade unions, civil societies, etc.

Labour violence: Violence that discriminates women at a place of employment by refusing to hire or promote a female employee, unfair demands on the marital status and age of a woman, and psychological harassment of women.

Media violence: Publication and circulation of images or messages which exploit, defame, humiliate women as well as the use of women or children in pornographic content.

What is the responsibility of the federal and provincial governments in Argentina?

The governments must

1. protect the right to equality for men and women;
2. raise awareness in the society and re-educate offenders;
3. punish violence against women and offer free, easy assistance to victimised women;
4. respect women's right to privacy and confidentiality; and
5. comply with international laws (Article 7).

The body responsible for creating policies to protect women against violence and raise awareness is the [National Council of Women](#) (CNM) (Article 8). CNM's first major initiative to fulfil its obligations is the introduction and implementation of the [Plan for the Prevention, Assistance, and Eradication of Violence against Women](#), to prevent and punish gender based violence.

How can one file a complaint about violence against women?

A complaint can be made to a judge either orally or in a written form. If a complaint is made to a police officer, it has to be referred to a judge in 24 hours.

Complaints can be submitted by

- i. the victimised woman;
- ii. the legal representative of a child;

- iii. any other person if the victim is disabled or cannot physically go to the police or judge.

In cases of sexual violence, *only* the woman who has suffered can make a complaint. If any other third person makes it on behalf of the victim, she will have to authorise the same in 24 hours (Articles 21 and 24).

Assistance to and protection of victims:

Assistance offered to women who have suffered any violence will be free / pro bono. A judge can also order preventive measures to protect women. For example, a judge can prohibit the offender from the victim's residence, cease weapons from the offender, offer security to women, etc. (Article 26).

Are there any support services available to women in Argentina?

Yes, there are shelters, homes, assistance centres, and telephone hotlines which help women in need.

Shelters:

- a) Casa-Refugio Mariquita Sánchez (House-Refuge "Marquita Sanchez) shelters women above the age of 21 years, and their children, who are victims of domestic violence.
- b) Casa de Medio Camino Julieta Lanteri (House of Half Way "Julieta Lanteri") shelters victims of domestic violence who are also looking to be reintegrated in the society and find employment.

Hotlines:

- a) The National Council of Women offers a national hotline, Linea 144, to advise and assist victims of domestic violence.
- b) Brigada Móvil de Atención a Víctimas de Violencia Familiar (The Mobile Brigade for the Assistance of Victims of Domestic Violence) offers 24x7, free of charge assistance to victims of violence through its hotline 137. The Brigade has a team of psychologists, lawyers, and police officers who safeguard victims.

Other assistance centres:

- a) Centros Comunitarios de Atención Integral a la Violencia (Community Centres for the Assistance of Victims of Violence) offers legal and psychological aid to victims of domestic violence.
- b) Centro de Atención a la Víctima (Victim's Assistance Centre) is a branch of the Argentine Federal Police and receives complaints from victims during the week.

The Ministry of Justice and Human Rights suggests several other options on its [website](#).