

## **Parte III**

# **Brief Histories on Family Planning Programs and Legislations in Selected Latin American and Caribbean Countries**



# The context of family planning in Argentina<sup>1</sup>

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Argentina<sup>4</sup> is a special case within Latin America when it comes to fertility levels and trends. Its fertility decline started early, at the beginning of the 20th century, and largely took place before the 1950s (Pantelides, 2006). By the early 1950s, the total fertility rate (TFR) had dropped to around 3.2 children per woman, less than half the value of 7 of the 1890s (Arretx, Mellafe and Somoza, 1977; Camisa, 1965). Since then, the decline has been gradual, with periods of stagnation and a small increase in the mid 1970s. For 2005-2010, the total fertility rate (TFR) is estimated at 2.4, practically identical to the mean for the Latin American region<sup>5</sup>. This average fertility, however, hides internal differences by geographical areas and by socio-economic status. As an example, the TFR of the city of Buenos Aires (1.4) is half that of the province of Formosa (2.8). Another characteristic of Argentine fertility is the relatively high adolescent fertility (64 children per 1,000 women, 15-19 years old) which is not in accordance with the general fertility level.

The Argentine fertility transition took place before hormonal contraceptives became available, and thus it is safe to assume that periodic abstinence, withdrawal and abortion were the means through which fertility was controlled by the population. The present fertility levels are achieved through mechanical and hormonal methods and by induced abortion. According to a 2004-2005 survey of women 10-49 years old, residing in urban areas<sup>6</sup>, 78% of sexually active women were using a contraceptive method at the time of interview, with 41% using condoms,

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<sup>1</sup> This text is partially based on previous publications: Gogna, (2004); Moreno and Pantelides (2009).

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<sup>4</sup> Together with Uruguay.

<sup>5</sup> Estimated by CELADE, hypothetical mean. [www.cepal.cl/celade](http://www.cepal.cl/celade), accessed September 11, 2009.

<sup>6</sup> Urban areas of at least 5,000 inhabitants.

28% hormonal methods and 11% IUD (Pantelides, Binstock and Mario, 2007). A recent, indirect estimate places the annual number of induced abortions between 372,000 and 522,000 (Mario and Pantelides, 2009).

The slow population growth was the basis that justified pro-natalist policies through most of the history of Argentina (Llovet and Ramos, 1986). By 1974, a governmental decree prohibited all activities devoted to fertility control and established measures to restrict the sale of contraceptives. In 1977, the military dictatorship, by way of another decree, counted among the “national population objectives and policies” the elimination of all activities that could promote fertility control. These restrictions were lifted in 1986, three years after democracy was restored, but this did not lead to immediate action.

In 1985, Congress ratified the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) which was later included in the new Constitution of 1994. Thus the country was making, for the first time in its history, a commitment to guarantee men and women counselling and access to contraceptives (article 10 of CEDAW). Following an unsuccessful attempt in the late 1990s, the Senate finally approved a bill in 2002 creating the National Program on Sexual Health and Responsible Procreation under the Ministry of Health (Law 25.673). The political timing of the approval of the law was unexpected since it took place under a transitional, non-elected government immersed in the deepest crisis in the country’s history and can be associated with the sudden coverage that the media gave to the increasing cases of malnutrition and infant mortality that brought the issue of maternal and child healthcare into the public arena as an issue that could no longer be ignored by government authorities. To some extent, the sanctioning of the national law constituted a turning point since it explicitly incorporates sexual and reproductive health into the State’s agenda and evidences of political will to implement actions in this field.

The National Program on Sexual Health and Responsible Procreation includes, amongst others, the provision for contraceptive information and services to the population without discrimination. Program goals include the reduction of maternal mortality and morbidity; the prevention of unwanted pregnancies; the promotion of adolescent sexual health; and the prevention and early detection and treatment of sexually transmitted diseases, HIV/aids and breast and cervical/uterine cancer. Regarding to contraception, it allows public and private hospitals and healthcare centers to provide “transitory, reversible and non-abortive contraceptive methods” on demand. However, articles 9 and 10 exempt religious institutions from this obligation if they object to the provision of contraceptive methods based on religious convictions.

The national law encouraged provinces that until then did not have reproductive health programs, like the Province of Buenos Aires<sup>7</sup>, to approve similar laws. Even though at present the majority of Argentine provinces have reproductive health laws and programs, contraception is not widely available to users of public health services due to budgetary, ideological and/or political factors (Gogna and Zamberlin, 2004).

The access of teenagers to the provision of contraceptive counseling and methods is still controversial, particularly in some poorer provinces in which the influence of the Catholic Church and other conservative forces is still powerful. In some provinces, for instance, Housewives Leagues and other right-wing NGOs have taken legal actions against reproductive health programs declaring them unconstitutional, arguing that providing contraceptives to minors violates parents' custody rights. So far, Provincial Law Courts have not accepted these claims based on the "superior interest of the child" (Rights of the Child Convention). In addition, research results indicate that healthcare managers and providers' are often not familiar with prevailing legislation (which guarantees adolescents sexual and reproductive rights) and/or the fact that public opinion supports sex education and the provision of contraception to adolescents. Social taboos, religious or ideological stances and the fear of healthcare providers of moral or legal sanctions are other factors that hinder primary prevention of unwanted teen pregnancies and HIV/aids among adolescents and young people (Capuccio and Schuffer, 2006, Gogna, 2008).

According to a recent survey of people living with HIV/aids, this population also has unmet contraceptive needs: 55% of women and 30% of men have had children after their HIV diagnosis and half of those pregnancies had been unintended (Pecheny and Manzelli, 2006).

Emergency contraception was banned by the Supreme Court in 2002, but since the specific product mentioned in the ban was no longer on sale, the norm had no practical effect. Moreover, due to media coverage, public opinion was widely informed of the existence of this method. Emergency contraception was banned again in 2008 by two Provincial Laws.

On the other hand, in 2006, the National Law of Surgical Contraception (Law 26130) widened the provision of contraceptive methods available to the population as tubal ligation and vasectomy, previously forbidden, were included for the very first time among legally authorized methods.

To sum up, equitable access to modern and safe contraception is, to some extent, a pending issue in Argentina. Removing material, institutional and ideological

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<sup>7</sup> Despite accounting for 40% of the country's population, the Province of Buenos Aires did not have an official reproductive health law or program until 2003.

obstacles not only requires political will and programmatic guidelines but also a favorable scenario, one in which recent political and programmatic achievements are consolidated, intensified and expanded.

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