

Supreme Court of Justice of the Nation

Buenos Aires, March 12th, 2002.

Having reviewed the proceeding titled "Ramos, Marta Roxana *et al.* against the province of Buenos Aires *et al.* on constitutional protection of rights."

1) On pp. 61/70 Marta Roxana Ramos appears before the Court, in her own right and on behalf of her eight minor children, and files an appeal for constitutional protection with the Justice of the Federal Civil and Commercial Court, against the Ministry of Social Development and the Environment of Argentina, the Province of Buenos Aires and the "Professor Juan P. Garrahan" Pediatric Hospital.

The petition intends: a) that the above mentioned ministry and province respect the rights of the petitioner and her children to nourishment, health, education and decent housing, and that, as a result thereof, the co-defendants "concretely, effectively and continually" provide her with a "monthly alimentary amount" that enables her to meet their basic needs and live a decent life; b) that the three co-defendants grant her daughter Mariana Salomé Ramos the healthcare benefits necessary in accordance with her state of health, and that they remove all conditions that have until now prevented the full and proper materialization of her right to health; c) that the national ministry and provincial government provide her six school-aged children with the material conditions (clothing, footwear, school books and supplies, and transportation costs) necessary to attend an educational establishment; d) that all rules and regulations that prevent the materialization of the rights stated in the foregoing —to the extent requested— be declared as unconstitutional, and that the "contested actions of the defendants —by way of

omission— constituting the non-performance thereof to the present date” also be declared as unconstitutional (sic); e) that their avowed right —and that of all other children and individuals lacking economic resources— to the provision of a food assistance sum of the scope stated in paragraph a) be declared binding under the Constitution. The petitioner states that she lives in a humble home - loaned to her at no expense - with her children, whose ages range from nine months to fifteen years. She describes that she sent several letters to the defendant province and ministry, stating her condition as an unemployed mother of eight children, one of whom - Mariana Salomé Ramos - needed surgery due to her congenital heart defect. She stated in her correspondence that her daughter “has suffered from malnutrition...and in the past has been unable to undergo surgery, given that when the opportunity for surgery opened up at the Garrahan Hospital, it was impossible to transport her...due to a lack of financial means, and because I have nowhere to leave my other children, since I do not live with a partner or any other relatives.” She also stressed in her correspondence that Mariana Salomé suffered from second-degree developmental delay and that her six school-aged children did not attend classes due to a lack of financial means, thus being deprived of the possibility of eating in the school cafeteria; she therefore requested that the aforesaid authorities reply within 24 hours and grant her the means necessary for her children to attend classes and for her sick daughter to undergo surgery at the Garrahan Hospital, where she is being treated for a congenital heart defect. She also claims that she deposited a letter with the above mentioned health center to pursue this objective. However, as of the date this

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proceeding was initiated (six or seven days after the letters were delivered), she had received no response.

She maintains that they are living in "an extreme level of poverty", and that it would be indecent to demand food from other relatives that would be obliged to pay it, since - beyond the fact that only two of her children have been recognized by their fathers - none of them are in a strong enough financial position to secure their own livelihood.

She adds that her own lack of education adds to her dire financial situation, which means that she and her children are mired in a structural poverty from which they cannot escape without state help. She insists that her own lack of education prevents her entry into the labor market, and that the same situation is bound to be experienced by her children, who will be unable to finish their education and who suffer from malnutrition - and in some cases developmental delay - due to malnourishment in quantity and quality. She stresses that she does not have the material assets necessary to ensure her children's survival, and that her circumstances do not even allow her to send them to school.

She bases her rights on the Argentine Constitution (Articles 18, 31, 33, 43, 75 and 116), the Universal Declaration of Human Rights, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Vienna Convention on the Law of Treaties and the Constitution of the Province of Buenos Aires, as well as various provisions of Laws 27, 48 and 16,986, and of the Civil Code.

2) That the federal justice be declared as lacking proper jurisdiction and that the case be remitted to this Court. Finally, that the Court resolves that the case falls entirely within its jurisdiction (pp. 91/92).

3) Constitutional protection is an exceptional process applicable in the most delicate and extreme situations where - in the absence of other appropriate legal avenues - the protection of basic rights is jeopardized, and that its initiation requires an extremely particular set of circumstances to be present, characterized by evidence of manifest arbitrariness or illegality, where the inefficacy of ordinary proceedings causes specific or serious damage that can only be repaired through this urgent and expeditious legal proceeding (Ruling Rulings: 310:576 & 2740; 311:612, 1974 & 2319; 314:1686; 317:1128; 323:1825 & 2097, and many more).

4) In view of this definition, the proceeding filed in the case before us is manifestly inadmissible. Indeed, the text of the petition and supporting documentation does not infer any direct denial of access to education or healthcare benefits required on the part of the co-defendants. Thus, no impediment attributable to the co-defendants is demonstrated to exist that would prevent the children of the petitioner attending a free, public educational establishment in their home city of González Catán, La Matanza district, Province of Buenos Aires. Nor does the initial letter infer that the right to health of the minor Mariana Salomé Ramos was in any way frustrated through the denial of the specific medical practices required by her condition. Rather, her mother acknowledged that the minor's congenital heart defect is being treated at the Garrahan Hospital - the free of charge nature of which she does

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not dispute - and that she was given an appointment for surgery that was missed for motives not properly explained in the submission, while her alleged inability of transportation does not seem, prima facie, an unsurmountable impediment in view of well-known presence of mobile units at the above mentioned care center.

5) In respect of the claim for the "concrete, effective and continuous" provision of a "monthly food assistance amount" at the expense of the Ministry of Social Development and Environment and the Province of Buenos Aires, which would be sufficient to meet all basic needs of Mrs. Ramos' family unit (food, clothing, housing, transport, etc.), the materialization of such an expectation would mean transferring to the state an obligation incumbent upon relatives (Articles 367 and subs. of the Civil Code) - the enforcement of which by the relatives responsible she dismisses a priori - which would ameliorate this proceeding through an entirely inappropriate legal avenue.

6) In the alternative, the petitioner must resort to the administrative jurisdiction of the welfare programs of the state and provincial government to try to overcome her distressing situation, and must channel her appeals through the Social Security system procedures provided for this purpose. In this respect, the petitioner has failed to demonstrate - as was incumbent upon her - that any specific benefit was unavailable to her as a result of her vulnerable situation, and this omission cannot be remedied by the officious action of this Court, since is not responsible for her tutelary defense, with this function belonging to other specific bodies of the state.

7) In view of the conditions described above, and although the neglect demonstrated by the petitioner - which forms the basis of her submission - which reveals a shocking social picture, cannot be resolved by the Court, since its jurisdiction does not provide for the appraisal or issuance of general opinions on situations whose governance is not entrusted thereunto (Rulings: 300:1282 and 301:771), nor may it allocate available budgetary resources at its own discretion, since the Constitution entrusts a body other than the Court to satisfy general well-being, under the terms of Article 75, Para. 18 and 32 (cfr. arg. Rulings: 251:53).

8) On this matter, it is worth remembering that the purpose of an appeal for constitutional protection shall not be to obstruct legal proceedings or alter current institutions (Rulings: 310:1542, 1927 y 2076; 315:1485; 317:1755; 322:2247), nor is it to justify the extension of the legal and constitutional jurisdiction of the courts (Rulings: 310:2076), which are not responsible for verifying the propriety with which the administration performs the functions entrusted thereunto under law or the reasonableness with which it exercises its powers.

9) In view of the foregoing, and with no evidence of any manifest acts or abstentions having arbitrarily or unlawfully affected or threatened the rights cited (Article 43 of the Argentine Constitution and Article 1 of Law 16,986), the substantiated petition shall be rejected (cfr. Article 3 of the above mentioned law).

Therefore, the appeal for constitutional protection filed by

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Marta Roxana Ramos, in her own right and on behalf of her children Jessica Lorena Ramos, Gabriel Jesús Coma, Yanina Gisell Ramos, Mariana Salomé Ramos, Pablo Ezequiel Ramos, Etiana Elizabeth Ramos, Lucas Héctor Matías Ramos and Cristian Nahuel Castaños, is hereby rejected.

It is ordered that it be notified and promptly docketed. EDUARDO MOLINE O'CONNOR - CARLOS S. FAYT (dissenting)- AUGUSTO CESAR BELLUSCIO - ENRIQUE SANTIAGO PETRACCHI (see opinion)- ANTONIO BOGGIANO (dissenting)- GUILLERMO A. F. LOPEZ - GUSTAVO A. BOSSERT (see opinion)- ADOLFO ROBERTO VAZQUEZ (see opinion).

SAMPLE DOCUMENT

OPIN-//-

Supreme Court of Justice of the Nation

-//-ION OF JURIS DOCTORS ENRIQUE SANTIAGO PETRACCHI AND GUSTAVO

A. BOSSERT

Whereas:

1) On pp. 61/70 Marta Roxana Ramos appears before the Court, in her own right and on behalf of her eight minor children, and files an appeal for constitutional protection with the Justice of the Federal Civil and Commercial Court, against the Ministry of Social Development and the Environment of Argentina, the Province of Buenos Aires and the "Professor Juan P. Garrahan" Pediatric Hospital.

The petition intends: a) that the above mentioned ministry and province respect the rights of the petitioner and her children to nourishment, health, education and decent housing, and that, as a result thereof, the co-defendants "concretely, effectively and continually" provide her with a "monthly alimentary amount" that enables her to meet their basic needs and live a decent life; b) that the three co-defendants grant her daughter Mariana Salomé Ramos the healthcare benefits necessary in accordance with her state of health, and that they remove all conditions that have until now prevented the full and proper materialization of her right to health; c) that the national ministry and provincial government provide her six school-aged children with the material conditions (clothing, footwear, school books and supplies, and transportation costs) necessary to attend an educational establishment; d) that all rules and regulations that prevent the materialization of the rights states in the foregoing - to the extent requested - be declared as unconstitutional, and that the "contested actions of the defendants - by way of omission - constituting the non-performance thereof to the

present date" also be declared as unconstitutional; e) that their avowed right - and that of all other children and individuals lacking economic resources - to the provision of a food assistance sum of the scope stated in paragraph a) be declared binding under the Constitution.

The petitioner states that she lives in a humble home - loaned to her at no expense - with her children, whose ages range from nine months to fifteen years. She recounts that she sent several letters to the province and ministry being filed against, stating her condition as unemployed mother of eight children, one of whom - Mariana Salomé Ramos - required surgery for a congenital heart defect. She stated in her correspondence that her daughter "has suffered from malnutrition...and in the past has been unable to undergo operation, given that when a slot arose at the Garrahan Hospital, it was impossible to transport her...due to a lack of financial means, I have nowhere to leave my other children, since I do not live with a partner or any other relatives." She also stressed in her correspondence that Mariana Salomé suffered from second-degree developmental delay and that her six school-aged children did not attend classes due to a lack of financial means, for which they were deprived of the possibility to eat in the school cafeteria; she therefore requested that, within twenty-four hours, the above mentioned authorities grant her the means necessary for her children to attend class and for her sick daughter to be operated at the Garrahan Hospital, where she is being treated for a congenital heart defect. She also claims that she deposited a letter with the above mentioned health center to pursue this objective. However, as of the date this proceeding was initiated (six or

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seven days after the letters were delivered), she had received no response.

She maintains that they are living in "an extreme level of poverty", and that it would be indecent to demand food from other relatives that would be obliged to pay it, since - beyond the fact that only two of her children have been recognized by their fathers - none of them are in a strong enough financial position to secure their own livelihood.

She adds that her own lack of education adds to her dire financial position, which means that she and her children are mired in a structural poverty from which they cannot escape without state help. She insists that her own lack of education prevents her entry into the labor market, and that the same situation is bound to be experienced by her children, who will be unable to finish their education and who suffer from malnutrition - and in some cases developmental delay - due to malnourishment in quantity and quality. She stresses that she does not have the material assets necessary to ensure her children's survival, and that her circumstances do not even allow her to send them to school.

She bases her claims on the Argentine Constitution (Articles 18, 31, 33, 43, 75 and 116), the Universal Declaration of Human Rights, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Vienna Convention on the Law of Treaties and the Constitution of the Province of Buenos Aires, as well as various provisions of Laws 27, 48 and 16,986, and of the Civil Code.

2) The federal justice be declared to lack competent jurisdiction and that the case be remitted to this Court. Finally, that the Court resolve that the case falls entirely within its jurisdiction (pp. 91/92).

3) The account of the petitioner and supporting documentation do not suggest that any public body refused her children access to education or healthcare benefits required. Rather, the plaintiff admits that her daughter Mariana Salomé Ramos" is being treated at Garrahan Hospital" and that she was given an "appointment" for surgery that she missed for motives of doubtful veracity (pp. 45, 52, 53 and 64). Her account also indicates that some of her children attended an educational establishment until 1999, where they were fed in the school cafeteria (see pp. 64 and 71 and documentation on pp. 55/60).

4) On the other hand, the plaintiff's situation falls, prima facie, under the provisions of Law 23,746 (regulated by ruling 2360/90) establishing "a monthly, unattachable, lifelong pension" for mothers with seven or more children, whatever their age and marital status. Indeed, if the facts stated in the petition and supporting documentation are correct (pp. 7/11 and 35/44), Mrs. Ramos would meet the basic conditions (lack of sufficient material assets, income and resources to provide for the subsistence of the family unit, absence of relatives obliged to provide food with sufficient economic capacity for its provision, Argentine, etc.) demanded by the law cited and its regulation.

It is of note that the seventh child of the petitioner was born on August 2, 1996 (cfr. pp. 37), which is to say, several years before the petition was filed, despite which the petitioner has not alluded to having initiated the

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process to obtain this pension either at this time or subsequently, which would automatically and immediately allow her to access the services of a healthcare system (cfr. Articles 1 and 2 of Law 24,734, ruling 793/01).

5) In view of the circumstances stated above, and with no evidence of any manifest acts or abstentions having arbitrarily or unlawfully affected or threatened the rights cited (Article 43 of the Argentine Constitution and Article 1 of Law 16,986). The petition shall therefore be rejected as unsubstantiated (Article 3 of the above mentioned law).

6) In view of the conditions described above, it is worth adding that although the situation of neglect demonstrated by the petitioner - which forms the basis of her submission - reveals a shocking social picture, this cannot be contemplated or resolved by this Court, since its jurisdiction does not provide for the appraisal or issuance of general opinions on situations whose governance is not entrusted thereunto (Rulings: 300: 1282 and 301:771).

Therefore, the appeal for constitutional protection filed by Marta Roxana Ramos, in her own right and on behalf of her children Jessica Lorena Ramos, Gabriel Jesús Coma, Yanina Gisell Ramos, Mariana Salomé Ramos, Pablo Ezequiel Ramos, Etiana Elizabeth Ramos, Lucas Héctor Matías Ramos and Cristian Nahuel Castaños, is hereby rejected.

It is ordered that it be notified and promptly docketed. ENRIQUE SANTIAGO PETRACCHI - GUSTAVO A. BOSSERT.

SAMPLE DOCUMENT

OPIN-//-

Supreme Court of Justice of the Nation

-//-ION OF JURIS DOCTOR ADOLFO ROBERTO VAZQUEZ

Whereas:

1) Marta Roxana Ramos, in her own right and on behalf of her eight children, files an appeal for constitutional protection with the Justice of the Federal Civil and Commercial Court, against the Ministry of Social Development and the Environment of Argentina, the Province of Buenos Aires and the "Professor Juan P. Garrahan" Pediatric Hospital.

She contends a violation of her right to healthy and proper nourishment, the right to health, the right to education and the right to decent housing, further expecting the province and the ministry to "concretely, effectively and continually" provide her with a "monthly food assistance amount" to enable a decent life, and to provide her six school-aged children with the material conditions (clothing, footwear, books, school supplies, and transportation costs) necessary to attend an educational establishment.

Moreover, she requests that Garrahan Hospital respect her daughter Mariana Salomé Ramos' right to health and that she be provided all healthcare benefits necessary based on her current state of health.

In addition, she demands that all rules and regulations that prevent the materialization of the rights stated in the foregoing - to the extent requested - and the "contested actions of the defendants - by way of omission - constituting the non-performance thereof to the present date" be declared as unconstitutional;

Finally she requests that their avowed right - and that of all other children and individuals lacking economic

resources - to the provision of a food assistance amount of the scope stated be declared binding under the Constitution.

In support of her petition, she claims that she sent letters to the co-defendants highlighting her situation and gave them a 24-hour period to adjudge the merits of the case, but she received no reply.

She also states that one of her daughters requires surgery for a congenital heart defect and that she has suffered from malnutrition, further indicating that, although "Garrahan" Hospital gave her an appointment for said surgery, she was unable to transport her to the hospital on this occasion due to a lack of financial means and nowhere to leave her other children.

She adds that six of her children are of school age and that she was unable to send them to classes, as a result of which they were deprived of the opportunity to eat in the school canteen.

She states that her own condition and that of her children is one of extreme poverty and that any legal action against the fathers of her children would be fruitless since only two of them have been recognized by their fathers, while of her family members that would be obliged to provide her with food, none are in suitable conditions to provide for even their own sustenance.

In respect of housing, she states that they live in a modest room of sheet metal and wood loaned to them by one generous family.

Finally, she reiterates that she has no material assets and that, due to her cultural background and financial status, it is impossible for her to find employment.

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She bases her claims on the Argentine Constitution (Articles 18, 31, 33, 43, 75 and 116), the Universal Declaration of Human Rights, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Vienna Convention on the Law of Treaties and the Constitution of the Province of Buenos Aires, as well as various provisions of Laws 27, 48 and 16,986, and of the Civil Code.

2) On pp. 91/92, the Court ruled - following the declaration of the lack of jurisdiction of the federal justice - that the actions concerned fall entirely within its originating jurisdiction.

3) The procedure for requesting constitutional protection is inappropriate in this case. May it be stressed that the text of the petition and supporting documentation does not infer any direct denial of the healthcare benefits required or access to education on the part of the co-defendants.

On the contrary, the petitioner admits that her daughter Mariana Salomé Ramos was given an appointment at Garrahan Hospital, which she was unable to make.

4) Without prejudice to the foregoing, it cannot go unmentioned that - according to her statement - the petitioner is Argentine, she is not covered by any welfare or pension program, nor does she have material assets, income or other resources that would enable the subsistence of herself and that of her family unit, as a consequence of which, prima facie, she meets the requirements provided for in Law 23,746 (governed by ruling 2360/90) to access a monthly, unattachable and lifelong pension.

In this respect, it is worth highlighting that, if the benefit mentioned is to be processed and obtained, it could satisfy one of the pursued goals of this proceeding, namely the attainment of an effective, monthly food assistance amount and the resultant medical care.

Therefore, the appeal for constitutional protection filed by Marta Roxana Ramos, in her own right and on behalf of her children Jessica Lorena Ramos, Gabriel Jesús Coma, Yanina Gisell Ramos, Mariana Salomé Ramos, Pablo Ezequiel Ramos, Etiana Elizabeth Ramos, Lucas Héctor Matías Ramos and Cristian Nahuel Castaños, is hereby rejected.

It is ordered that it be notified and promptly docketed. ADOLFO ROBERTO VAZQUEZ.

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DISS-//-

Supreme Court of Justice of the Nation

-//-ENT OF JURIS DOCTORS CARLOS S. FAYT AND ANTONIO BOGGIANO

Whereas:

1) On pp. 61/70 Marta Roxana Ramos appears before the Court, in her own right and on behalf of her eight minor children, and files an appeal for constitutional protection with the Justice of the Federal Civil and Commercial Court, against the Ministry of Social Development and the Environment of Argentina, the Province of Buenos Aires and the "Professor Juan P. Garrahan" Pediatric Hospital.

The petition intends: a) that the above mentioned ministry and province respect the rights of the petitioner and her children to nourishment, health, education and decent housing, and that, as a result thereof, the co-defendants "concretely, effectively and continually" provide her with a "monthly alimentary amount" that enables her to meet their basic needs and live a decent life; b) that the three co-defendants grant her daughter Mariana Salomé Ramos the healthcare benefits necessary in accordance with her state of health, and that they remove all conditions that have until now prevented the full and proper materialization of her right to health; c) that the national ministry and provincial government provide her six school-aged children with the material conditions (clothing, footwear, school books and supplies, and transportation costs) necessary to attend an educational establishment; d) that all rules and regulations that prevent the materialization of the rights stated in the foregoing - to the extent requested - be declared as unconstitutional, and that the "contested actions of the defendants - by way of omission - constituting the non-performance thereof to the present date" also be declared as unconstitutional; e) that

their avowed right - and that of all other children and individuals lacking economic resources - to the provision of a food assistance sum of the scope stated in paragraph a) be declared binding under the Constitution.

The petitioner states that she lives in a humble home - loaned to her at no expense - with her children, whose ages range from nine months to fifteen years. She recounts that she sent several letters to the province and ministry defending, stating her condition as unemployed mother of eight children, one of whom - Mariana Salomé Ramos - required surgery for a congenital heart defect. She stated in her correspondence that her daughter "has suffered from malnutrition...and in the past has been unable to undergo operation, given that when a slot arose at the Garrahan Hospital, it was impossible to transport her...due to a lack of financial means, I have nowhere to leave my other children, since I do not live with a partner or any other relatives." She also stressed in her correspondence that Mariana Salomé suffered from second-degree developmental delay and that her six school-aged children did not attend classes due to a lack of financial means, for which they were deprived of the possibility to eat in the school cafeteria; she therefore requested that, within twenty-four hours, the above mentioned authorities grant her the means necessary for her children to attend classes and for her sick daughter to be operated at the Garrahan Hospital, where she is being treated for a congenital heart defect. She also claims that she deposited a letter with the above mentioned health center to pursue this objective. However, as of the date this proceeding was initiated (six or seven days after the letters were delivered), she had received no response.

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She maintains that they are living in "an extreme level of poverty", and that it would be indecent to demand food from other relatives that would be obliged to pay it, since - beyond the fact that only two of her children have been recognized by their fathers - none of them are in a strong enough financial position to secure their own livelihood.

She adds that her own lack of education adds to her dire financial position, which means that she and her children are mired in a structural poverty from which they cannot escape without state help. She insists that her own lack of education prevents her entry into the labor market, and that the same situation is bound to be experienced by her children, who will be unable to finish their education and who suffer from malnutrition - and in some cases developmental delay - due to malnourishment in quantity and quality. She stresses that she does not have the material assets necessary to ensure her children's survival, and that her circumstances do not even allow her to send them to school.

She bases her claims on the Argentine Constitution (Articles 18, 31, 33, 43, 75 and 116), the Universal Declaration of Human Rights, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Vienna Convention on the Law of Treaties and the Constitution of the Province of Buenos Aires, as well as various provisions of Laws 27, 48 and 16,986, and of the Civil Code.

2) The federal justice be declared to lack competent jurisdiction and that the case be remitted to this Court.

Finally, that the Court resolve that the case falls entirely within its jurisdiction (pp. 91/92).

3) The account of the petitioner and supporting documentation do not suggest that any public body refused her children access to education or healthcare benefits required.

Rather, the plaintiff admits that her daughter Mariana Salomé Ramos "is being treated at Garrahan Hospital" and that she was given an appointment for surgery, which she was unable to attend (pp. 45, 52, 53 and 64). Her account also infers that some of her children attended an educational establishment until 1999, where they were fed in the school canteen (see pp. 64 and 71 and documentation on pp. 55/60).

4) Although the plaintiff's situation falls, prima facie, under the provisions of Law 23,746 (regulated by ruling 2360/90) establishing "a monthly, unattachable, lifelong pension" for "mothers with seven or more children, whatever their age and marital status", this does not constitute an impediment to the constitutional protection before us being processed

Indeed, if the facts stated in the petition and supporting documentation are correct (pp. 7/11 and 35/44), Mrs. Ramos would meet the basic conditions (lack of sufficient material assets, income and resources to provide for the subsistence of the family unit, absence of relatives obliged to provide food with sufficient economic capacity for its provision, Argentine, etc.) demanded by the law cited and its regulation.

It is of note that the seventh child of the petitioner was born on August 2, 1996 (cfr. pp. 37), which is to say, several years before the petition was filed, despite

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which the petitioner has not stated having initiated the process to obtain this pension, which would automatically and immediately allow her to access the services of a healthcare system (cfr. Articles 1 and 2 of Law 24,734, ruling 793/01).

5) Nevertheless, the existence of this welfare provision cannot, at this provisional stage of the process, be considered sufficient to meet the constitutional rights on which this petition is based, which therefore requires that this petition for constitutional protection be admitted.

6) The situation of lack of protection demonstrated by the petitioner, which forms the basis of her submission - in which a sizeable part of the population find itself - reveals a shocking social picture, which cannot be resolved by this Court, since its jurisdiction does not provide for the appraisal or issuance of general opinions on situations whose governance is not entrusted thereunto, as the specific nature of its functions as a fundamental institution prevent such actions (Rulings: 300:1282 and 301:771). It has thus been ascertained that specific demands can only be met at the voting booth and not within this court, since the Constitution entrusts a body other than the Court to satisfy general well-being, under the terms of Article 75, Para. 18 and 32 of the Argentine Constitution (opinion of Rulings: 251:53).

However, we cannot share any interpretation of this doctrine that rules out the possibility of the human rights in question being effectively recognized in law in a specific case such as this. Here, no request is being made for general government actions, but rather only those actions that would - in the opinion of the petitioners - meet the most basic of rights. In these circumstances, the admittance of this appeal

for constitutional protection intends to enable the effective preservation of the rights invoked, on the understanding that the effective operability of the human rights enshrined in the constitution must be provided for, rather than the creation of situations that would lead merely to their interpretation as founding hypotheses contemplated in the material responsibilities of the state ("Felicetti, Robero et al", Rulings: 323:4130, in dissent of Justice Fayt).

7) It is not appropriate at this stage of proceedings for the Court to rule in respect of whether it is appropriate to recognize the petitioners' right to life, health, education and decent housing and the obligations that would be borne by the state and the provincial government in this event. In the same way, it would be inappropriate to deny the existence or application thereof out of hand.

Therefore, it is ordered that the appeal for constitutional protection filed by Marta Roxana Ramos, in her own right and on behalf of her children Jessica Lorena Ramos, Gabriel Jesús Coma, Yanina Gisell Ramos, Mariana Salomé Ramos, Pablo Ezequiel Ramos, Etiana Elizabeth Ramos, Lucas Héctor Matías Ramos and Cristian Nahuel Castaños, be processed through the Clerk's Office. It is ordered that notice be given. CARLOS S. FAYT - ANTONIO BOGGIANO.

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