

# GLOBAL INFORMATION SOCIETY WATCH 2011

INTERNET RIGHTS AND DEMOCRATISATION

*Focus on freedom of expression and association online*



# ARGENTINA

## ACCESSING THE INTERNET AS A RIGHT IN PRISONS



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### Introduction

In Argentina – as in many other countries across the world – the conditions of confinement in prisons do not guarantee life. People in jails are deprived of more rights than their freedom. Prisons do not ensure access to health, education, food, hygiene, dignified conditions in cells and decent treatment of prisoners. The main problems that affect the conditions in correctional facilities are overcrowding and institutionalised violence.

Meanwhile, public policies that address these issues are influenced by two factors. On the one hand, facing a sense of an increase in violent crime, middle and higher social income groups demand tougher penalties, with a reprehensible disregard for the conditions under which sentences are enforced. This claim is amplified by the media. On the other hand, the political power responds to this situation with a so-called “punitive demagogy”,<sup>1</sup> deciding to construct more prisons and increasing police controls, detentions and imprisonment. These measures do not resolve the problem, falling more severely on impoverished classes and favouring the penal system as a tool for solving social conflicts.<sup>2</sup>

The precarious conditions of confinement and the absence of public policies based on civil rights are worsened because of the opacity and inaccessibility of the country’s prisons. Any resource that enables voices to be heard on the plight of prisoners helps to illuminate the darkness of the prison system. In this context, access to the internet for prisoners, besides offering them a source of information, and a way to communicate with the outside world and to organise collectively, serves as a medium for free expression that is indispensable to their right to tell their own stories.

1 CELS (2011) *Derechos Humanos en Argentina. Informe 2011*, CELS and Ediciones Siglo XXI, Buenos Aires. [www.cels.org.ar/common/documentos/CELS\\_FINAL\\_2011.pdf](http://www.cels.org.ar/common/documentos/CELS_FINAL_2011.pdf)

2 CELS (2008) Capítulo III: La situación carcelaria: una deuda de nuestra democracia, in *Derechos Humanos en Argentina. Informe 2008*. [www.cels.org.ar/common/documentos/carceles\\_ia2008.pdf](http://www.cels.org.ar/common/documentos/carceles_ia2008.pdf)

### Prison policy

The Argentine Constitution specifies in Article 18:

The prisons of the Nation shall be healthy and clean, and used for security and not for undue punishment of the prisoners confined therein. Any action taken under the pretext of a precautionary measure that leads to the degradation of prisoners beyond what the measure requires shall make the judge that authorises this action responsible for the decision.<sup>3</sup>

Argentina, as a federal republic, has a federal penitentiary service and several provincial services with their own regulations. Law 20.416 governs the performance of the federal service, defining as its main functions:

- Ensuring the safety of persons in custody, and that the prison regime contributes to preserving or improving their moral conditions, education and physical and mental health.
- Promoting the social rehabilitation of convicts.

The numbers appear to contradict these objectives. According to a 2008 report from the National System of Statistics on Enforcement of Sentences (SNEEP),<sup>4</sup> the prison population is 54,537 (increasing from 29,690 in 1997). This means 137.22 prisoners per 100,000 inhabitants. These figures place Argentina in sixteenth position in the world, based on official data from each country.<sup>5</sup> As for the status of the sentence, 47% are convicted and 52% are awaiting trial.<sup>6</sup>

SNEEP is meant to publish periodic reports to assess the implementation of prison policies, but it has not published reports since 2008, and when it does there are many inaccuracies. Its statistics do not count police station holding cells, for instance, which are also overcrowded, making it difficult to evaluate the number of prisoners in terms of prison

3 [www.argentina.gov.ar/argentina/portal/documentos/constitucion\\_nacional.pdf](http://www.argentina.gov.ar/argentina/portal/documentos/constitucion_nacional.pdf)

4 [www.jus.gov.ar/media/108979/Informe%20SNEEP%20ARGENTINA%202008.pdf](http://www.jus.gov.ar/media/108979/Informe%20SNEEP%20ARGENTINA%202008.pdf)

5 International Centre for Prison Studies (2009) *World Prison Population List*, King’s College, London. [www.kcl.ac.uk/depsta/law/research/icps/news.php?id=203](http://www.kcl.ac.uk/depsta/law/research/icps/news.php?id=203)

6 [www.jus.gov.ar/media/108979/Informe%20SNEEP%20ARGENTINA%202008.pdf](http://www.jus.gov.ar/media/108979/Informe%20SNEEP%20ARGENTINA%202008.pdf)

capacity, and to define measures to address the problem.

Other sources indicate that in the first half of 2010, 3,849 acts of violence were reported in the country's prisons, which gives an average of 10.5 cases per day.<sup>7</sup> Of the total, 929 were cases of prison staff violence against inmates, and 849 were fights between inmates. Another 348 cases were labelled as "self-harm" and 282 as "accidents", data that may be related to acts of violence that have been covered up. Another statistic from 2006<sup>8</sup> shows that only 3.44% of the cases are brought to trial and only 0.36% result in a sentence.

Most actors in the judicial system seem to have become accustomed to the conditions of the prisons and the institutional violence and do not report either.<sup>9</sup> Paradoxically, some groups of inmates consider these conditions necessary to learn to survive in violent prisons. These facts place the problem in the complex field of cultural attitudes.

Given the continuing violation of detainees' rights, in May 2005 the Supreme Court declared the United Nations (UN) Standard Minimum Rules for the Treatment of Prisoners<sup>10</sup> as the guideline for all detention institutions to follow. Furthermore, in June 2006, Argentina ratified the UN's Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment through Law 25.932. The protocol establishes a mechanism of prevention through regular visits to facilities, but the issue is still pending, and the mechanism is not yet in place.<sup>11</sup>

### Silenced facts behind the walls

Institutionalised violence is more difficult to attend to because of the opacity and inaccessibility of prisons. Although inmates have set ways that allow communication with the outside world, and have contact with state and social actors that work to improve their prison conditions and to institutionalise their demands, a shadow is cast over much of what goes on in prisons.

Among state actors, the Prison Ombudsman's Office<sup>12</sup> is in charge of protecting inmates and controlling penitentiaries. Amongst civil society, the work of the Centre for Legal and Social Studies (CELS), the Coordinator Against Police and Institutional Repression (CORREPI) and the Coordinator of

Work in Prison (CTC) stand out. They work on the institutionalisation of inmate demands and they all refer to the difficulties in accessing prisons. They also participate in so-called "dialogue tables", which are meetings of "pavilion representatives",<sup>13</sup> prison authorities and external actors. These sorts of initiatives are valuable mechanisms but not always conducive to hearing complaints from prisoners.

Prisoners' rights to communication should not be affected except in those cases in which a sentence explicitly states that they may not communicate with the outside world. Law Enforcement 24.660, which regulates the implementation of sentences,<sup>14</sup> defines in its Article 158 that "inmates have the right to communicate regularly, orally or in writing, with their family, friends, lawyers, and representatives of government agencies and private institutions with legal status who are interested in their social reintegration" and in Article 164 it states that "they have the right to be informed of events of national and international life through social communication media." The law also refers to a document dealing with "Rules of Inmate Communication", which expands on the legal provisions above.<sup>15</sup>

From day-to-day descriptions of life in prison, detainees report that telephones are frequently inaccessible for long periods of time.<sup>16</sup> Mobile phones are forbidden, but many inmates manage to smuggle them in. However, if authorities allow prisoners to have phones, they would, for instance, be able to log them and track their use in crimes, and would avoid the difficulty of having to make sure that the phones are not smuggled into the prisons. Mobile phones have also been used for recording and reporting violence.<sup>17</sup>

### Voices passing through walls...

*We cannot break down the walls and gates but what we can do is allow the voices of those who are sentenced to silence and oblivion to pass through them. – Rodolfo Walsh Agency*

The headline shouts: "Model Rehabilitation Institute: 114 fatalities in less than 10 years". The article

7 [www.comisionporlamemoria.org/comite/informes/informe\\_2010.pdf](http://www.comisionporlamemoria.org/comite/informes/informe_2010.pdf)

8 Ministerio Público Fiscal (2006) *Informe Anual al Congreso de la Nación*. [www.mpf.gov.ar](http://www.mpf.gov.ar)

9 CELS (2011) Op. cit.

10 [www.spf.gov.ar/pdf/ReglasMinimasparaelTratamientodeReclusos.pdf](http://www.spf.gov.ar/pdf/ReglasMinimasparaelTratamientodeReclusos.pdf)

11 [www.cels.org.ar/common/documentos/mnpt\\_proyecto.pdf](http://www.cels.org.ar/common/documentos/mnpt_proyecto.pdf)

12 Procuraduría Penitenciaria de la Nación: [www.ppn.gov.ar](http://www.ppn.gov.ar)

13 The prisons are divided into so-called pavilions.

14 [www.infoleg.gov.ar/infolegInternet/anexos/35000-39999/37872/texact.htm](http://www.infoleg.gov.ar/infolegInternet/anexos/35000-39999/37872/texact.htm)

15 [www.spf.gov.ar/index.php?option=com\\_content&view=article&id=108&Itemid=35](http://www.spf.gov.ar/index.php?option=com_content&view=article&id=108&Itemid=35)

16 Information obtained through email interviews with prisoners of Regional Unit 3 and the Coronda Penitentiary.

17 [www.enfoque365.net/N19146-torturas-en-crcel-argentina-fueron-filmadas-y-difundidas-por-internet-y-telefonos-celulares.html](http://www.enfoque365.net/N19146-torturas-en-crcel-argentina-fueron-filmadas-y-difundidas-por-internet-y-telefonos-celulares.html)

was published by “Ciudad Interna” (Inner City) – the blog of a group of inmates in a so-called model prison in Coronda – after the death of four detainees during a conflict. The article complains that the measures that authorities take in general after this kind of episode amount only to punishment and confinement. Because of this, most conflicts result in the death of inmates.

Coronda, the biggest prison in Santa Fe province, is called a “model” prison because it used to have a school, a sports field and housed the workshop of a garment and shoes manufacturer that offered the possibility of social reintegration after prisoners had served their sentence. Political prisoners were jailed there during the last military dictatorship (1976-1983) and – more recently – it was the scene of an uprising which ended with fourteen prisoners killed, in April 2005.

After the uprising, a group of inmates started meeting with the objective of publishing a magazine written entirely by them. They were assisted by two journalists who ran a workshop. The publication was called “Coronda: Ciudad Interna” and it was the first step towards a bridge that the group started to build, linking them to the outside world. Later they started a radio station for inmates,<sup>18</sup> and then began to negotiate for access to the internet.

There is no legislation in Argentina that prevents access to the internet in jails. In several prisons it is used in distance learning projects, generally in penitentiary libraries.<sup>19</sup> In Coronda internet access for distance learning was already in place through an agreement with the University of Litoral.<sup>20</sup> However, Ciudad Interna wanted to extend the time of this access. With the support of a group of lawyers they prepared a habeas corpus in which they argued that “digital exclusion means the deprivation of the human right to communicate,” conceiving communication through the web “as an extension of human possibilities.” They stated: “Nowadays the internet enables us to transcend the prison walls, to take our complaints to the outside, to train ourselves in a job, to keep in contact with the world in order to intervene in reality and thus to have the possibility, perhaps, to transform our present condition of exclusion and marginalisation.”

The group finally obtained access to the internet. The technology and the connection they got

was unstable – and only a few computers were available. They shared these with all of the prisoners, which made communication difficult and slow. In turn they complained that this was an “excuse used by penitentiaries to leave us cut off [from the outside world].”

Generally, access is restricted in terms of time. The prisoners who do get access send email and search for information; also, “some prisoners have met girls with whom they begin a relationship, others have found jobs they can go to when they get out.” Others use instant messaging (IM) to “chat” – during a recent conflict an inmate used IM to contact a CTC staff member who called the prison authorities. Instantaneous communication by chat or mobile phones (when they are smuggled in) facilitates rapid intervention to avoid increasing tension.

Computer rooms are frequently the birthplace of training and communication projects. “Once we had the connection, we did not know anything about internet and there was no one to teach us. People from outside helped us to create email accounts and later the blog,” Ciudad Interna said. The magazine and the blog are mainly dedicated to complaints about violations of human rights. When an article deserves more attention, they also use email to circulate it. “The group called this procedure ‘la gatilladita’ [little trigger] because we reach our contacts directly and they do not need to consult the blog.”

In a recent post, the prisoners published a historical analysis of penitentiary service in Argentina.<sup>21</sup> They wrote:

Navigating in this expansive virtual field, we learn about how what was used as a military structure became a prison. But because not everything is on the internet, we will provide reliable information – not disseminated by the mass media – with the intention that an ill-informed society gets to know about prison conditions in increasingly crowded jails. ... As it stands, bad men continue to control [prisoners]... torturing and killing... without anyone doing anything to stop it.

After publishing the article on the blog, they also sent it out by email. Nine websites republished the post – including some recognised independent media.

This example shows the potential of the internet as a medium to publish to the outside world, and as a source of information and means of contact and socialising. Today Ciudad Interna is a self-managed

18 [www.ciudadinterna.blogspot.com](http://www.ciudadinterna.blogspot.com)

19 Román, A. (2008) *Pensar Internet como elemento de reinserción en los penales argentinos*. [www.biblioteca.jus.gov.ar/roman\\_bteca\\_pen.pdf](http://www.biblioteca.jus.gov.ar/roman_bteca_pen.pdf)

20 [www.unl.edu.ar/noticias/leer/7351/Acuerdo\\_entre\\_la\\_UNL\\_y\\_la\\_provincia\\_por\\_la\\_Educacion\\_en\\_Prisiones.html](http://www.unl.edu.ar/noticias/leer/7351/Acuerdo_entre_la_UNL_y_la_provincia_por_la_Educacion_en_Prisiones.html) and [www.uba.ar/extension/trabajos/uba.htm](http://www.uba.ar/extension/trabajos/uba.htm)

21 [ciudadinterna.blogspot.com/2011/04/pareciera-que-del-titulo-de-esta-nota.html](http://ciudadinterna.blogspot.com/2011/04/pareciera-que-del-titulo-de-esta-nota.html)

media site produced by detainees, with the help of former detainees, and even relatives and working professionals.

Similar experiences are found elsewhere: La Cantora<sup>22</sup> from Unit 4 in Bahía Blanca; the blog Caracoles en Red (Snails on the Web)<sup>23</sup> from the Federal Psychiatric Hospital in Buenos Aires; Rompiendo el Silencio (Breaking the Silence),<sup>24</sup> a blog by Unit 3 and the blog Mujeres tras las rejas (Women Behind Bars) by Unit 5, both in Rosario.<sup>25</sup> These publications form a network, so that if one is silenced, the others sound the alarm.

### Conclusions

- The prison system in Argentina is not able to guarantee human rights due to structural and cultural limitations. In addition, it is also difficult to know what goes on inside prisons. Any means to shed light on prison conditions could help in making the public aware, and reporting on the situation. Self-managed projects and spaces promoted by civil society organisations contribute to this possibility.
- Although there is no legislation that prevents inmates from accessing the internet, it is not guaranteed for all detainees – only for those who organise and complain to the authorities.
- Internet access would allow inmates to maintain contact with their families, to keep informed about their communities, their country and the world, to build capacities for social reintegration, and to remain emotionally healthy.
- The web, specially the blogosphere, is very useful when it comes to awareness of what happens inside prisons, and for reporting on the violation of rights.

### Action steps

- Contribute to the debate about the importance of guaranteeing widespread access to the internet in prisons.
- Promote the creation of internet access points, so that all prisoners have the possibility to send email or find information. Access can offer various forms of assistance and help, as well as training.
- Discuss the ban on mobile phones in prisons, and promote the use of wireless connectivity.
- Demand that data collection tools be developed so that quantitative and qualitative information on various issues in prisons can be collated to inform policy. This could also be used to collect stories on the use of the internet in prisons to analyse the potential of the internet to rehabilitate prisoners. ■

<sup>22</sup> [www.lacantora.org.ar/inicio.php](http://www.lacantora.org.ar/inicio.php)

<sup>23</sup> [caracoles-en-red.blogspot.com](http://caracoles-en-red.blogspot.com)

<sup>24</sup> [rompiendoelsilenciu3.blogspot.com](http://rompiendoelsilenciu3.blogspot.com)

<sup>25</sup> [mujerestrasslasrejas.blogspot.com](http://mujerestrasslasrejas.blogspot.com)

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