



# ARGENTINA

	2012	2013
<b>INTERNET FREEDOM STATUS</b>	<b>FREE</b>	<b>FREE</b>
<b>Obstacles to Access (0-25)</b>	9	8
<b>Limits on Content (0-35)</b>	9	10
<b>Violations of User Rights (0-40)</b>	8	9
<b>Total (0-100)</b>	<b>26</b>	<b>27</b>

**POPULATION:** 40.8 million  
**INTERNET PENETRATION 2012:** 60 percent  
**SOCIAL MEDIA/ICT APPS BLOCKED:** No  
**POLITICAL/SOCIAL CONTENT BLOCKED:** No  
**BLOGGERS/ICT USERS ARRESTED:** No  
**PRESS FREEDOM 2013 STATUS:** Partly Free

\* 0=most free, 100=least free

## KEY DEVELOPMENTS: MAY 2012 – APRIL 2013

- Cases of intermediary liability were on the rise in 2012 and early 2013, with companies such as Google and Yahoo facing take down requests and facing fines should they choose not to comply with court orders (see **LIMITS ON CONTENT**).
- Argentines utilized social media to mobilize thousands of people for 8N, the largest antigovernment protest movement in Argentina in over a decade, which took issue with corruption, violent crime, and inflation (see **LIMITS ON CONTENT**).
- In November 2012, a pilot cybercrimes unit was created to combat rising incidents of hacking in Argentina (see **VIOLATIONS OF USER RIGHTS**).

## INTRODUCTION

Although it has been the focus of academic study since the 1980s, the internet was first used for commercial purposes in Argentina in 1991.<sup>1</sup> Internet penetration has steadily increased since, and Argentina is now home to one of the largest contingents of internet users in South America. In 2009, access began accelerating, due in part to government policies aimed at improving services and expanding broadband connections throughout the country.

Argentina has an active legal environment, especially regarding free speech and the internet. The country's legal framework has generally protected online freedom of expression and Argentines have free access to a wide array of online information. During 2012, multiple legal initiatives were presented in Congress regarding matters of intermediary liability, internet neutrality, and network surveillance.

Several court judgments between 2010 and 2013 restricted access to websites on claims of defamation or intellectual property rights violations, with one ruling leading to the accidental blocking of an entire blog-hosting platform. A series of injunctions against search engines in 2012 also imposed intermediary liability and forced companies to delete links from results presented to users. Although some of these rulings threaten internet freedom, due process was generally followed in each case and parties were given the chance to appear before the court to dispute the charges filed against them.

The majority of injunctions filed in 2012 were brought by celebrities regarding content they deemed damaging to their reputations. Although some intermediaries were subsequently ordered to remove links and those individuals who posted the questionable material were ordered to provide plaintiffs with monetary compensation, the Court of Appeals overturned some of these rulings after receiving criticism from freedom of expression advocates as well as international technology companies.<sup>2</sup> In 2012, Argentina also witnessed several instances of retaliation against online journalists, including violence, breaches of privacy, and the exposure of bloggers' personal information.

During the December 2012 World Conference on International Communications,<sup>3</sup> Argentina signed the International Telecommunications Regulations a "binding global treaty designed to facilitate international interconnection and interoperability of information and communication

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<sup>1</sup> Jorge Amodio, "Historia y Evolución de Internet en Argentina" [History and Evolution of the Internet in Argentina], *Internet Argentina* (blog), May 16, 2010, <http://blog.internet-argentina.net/p/indice.html>.

<sup>2</sup> The BLUVOL case is particularly relevant. Following a decision regarding defamatory content posted as a comment in a blog hosted on blogspot, a Buenos Aires Court of Appeal ordered Google to pay 10,000 Argentine pesos (US\$ 2,300) plus court costs for damages suffered by the claimant. For case details, see: [http://www.diariojudicial.com.ar/documentos/2013-Marzo/Bluvol\\_c\\_Googlex\\_daxos\\_por\\_blog.doc](http://www.diariojudicial.com.ar/documentos/2013-Marzo/Bluvol_c_Googlex_daxos_por_blog.doc)

<sup>3</sup> The landmark WCIT conference was convened by ITU in Dubai in December 2012. See: ITU, World Conference on International Telecommunications (WCIT-12): <http://www.itu.int/en/wcit-12/Pages/default.aspx>.

services.”<sup>4</sup> Despite its status as a signatory, Argentina maintained reservations about being bound by the regulations, wanting to safeguard the ability to take any measures necessary to protect its national interests.<sup>5</sup> Civil society organizations in Argentina remained heavily involved in the meeting and expressed continued interest in its outcome.<sup>6</sup>

## OBSTACLES TO ACCESS

Internet penetration in Argentina has improved consistently over the past decade, reaching 55.8 percent as of 2012.<sup>7</sup> Mobile web connectivity has also increased in recent years, as cellular phones have continued to grow in popularity.<sup>8</sup> The expansion of Argentina’s information and communications technology (ICT) sector has been facilitated by increased government investment in telecommunications infrastructure and equipment over the past three years. According to government figures, by September 2012, the number of internet subscriptions in Argentina had reached 12.2 million, with 10.3 million residential connections and 1.9 million commercial connections. As compared to data from 2011, these figures depict an increase of approximately 38 percent in the residential sector and 100 percent in the commercial sector.<sup>9</sup> Broadband connections, offering an average speed of 3 Mbps, have proliferated in recent years, accounting for more than 99 percent of the internet market by late 2012.<sup>10</sup>

Although access is growing across the country, the national Statistics institute, *Instituto Nacional de Estadísticas y Censos*, reports a stark gap between large urban areas (such as the capital Buenos Aires, Cordoba, and Santa Fe) and rural provinces; the former account for over 60 percent of home internet connections in the country.<sup>11</sup> In addition to socioeconomic disparities and price

<sup>4</sup> Anahí Aradas, “Los Lationamericanos y el Control de Internet” [Latin Americans and Control over the Internet], *BBC Mundo Tecnología* online, December 14, 2012, [http://www.bbc.co.uk/mundo/noticias/2012/12/121214\\_tecnologia\\_gobernanza\\_internet\\_dubai\\_aa.shtml](http://www.bbc.co.uk/mundo/noticias/2012/12/121214_tecnologia_gobernanza_internet_dubai_aa.shtml).

<sup>5</sup> “La Argentina Firmó con Reservas la Propuesta para una Nueva Regulación de Internet” [Argentina Signed the Proposal for New Internet Regulation with Reservations], *Infotechnology*, December 14, 2012, <http://www.infotechnology.com/internet/La-Argentina-firmo-con-reservas-la-propuesta-para-una-nueva-regulacion-de-Internet-20121214-0001.html>.

<sup>6</sup> Hisham Almiraat, “What Happened at the WCIT-12: Interview with Beatriz Busaniche,” *Global Voices Advocacy*, December 15, 2012, <http://advocacy.globalvoicesonline.org/2012/12/15/what-happened-at-the-wcit-12-interview-with-beatriz-busaniche>; Enrique A. Chaparro, “Después de la WCIT, y Más Allá” [After the WCIT, and Beyond], *Fundación Vía Libre*, December 19, 2012, <http://www.vialibre.org.ar/2012/12/19/despues-de-la-wcit-y-mas-alla/>.

<sup>7</sup> International Telecommunication Union, “Percentage of Individuals Using the Internet, Fixed (Wired) Internet Subscriptions, Fixed (Wired)-broadband Aubscriptions,” 2006 & 2011, <http://www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx#>; International Telecommunication Union, “Statistics: Percentage of Individuals Using the Internet, 2000-2012,” June 17, 2013, [http://www.itu.int/en/ITU-D/Statistics/Documents/statistics/2013/Individuals\\_Internet\\_2000-2012.xls](http://www.itu.int/en/ITU-D/Statistics/Documents/statistics/2013/Individuals_Internet_2000-2012.xls).

<sup>8</sup> El Tribuno, “El Tribuno, con el Presidente de Google en Argentina” [The Tribune with the President of Google Argentina], *El Tribuno* online, November 22, 2012, <http://bit.ly/1dSs6Db>.

<sup>9</sup> National Institute of Statistics and Censuses, “Accesos a Internet” [Press Reports on Access to Internet, Third Quarter of 2012], Ministry of Economics and Public Finances, Institute of Statistics and Censuses, accessed March 18, 2013, [http://www.indec.gov.ar/nuevaweb/cuadros/14/internet\\_12\\_12.pdf](http://www.indec.gov.ar/nuevaweb/cuadros/14/internet_12_12.pdf).

<sup>10</sup> Yahoo, “La Argentina está Fuera del Podio de Velocidad de Internet en América Latina” [Argentina is Outside the Podium of Internet Speed in Latin America], Yahoo News, May 30, 2012, <http://ar.noticias.yahoo.com/argentina-podio-velocidad-internet-am%C3%A9rica-latina-181000405.html>.

<sup>11</sup> National Institute of Statistics and Censuses, “Accesos a Internet” [Press Reports on Access to Internet, Third Quarter of 2012], Ministry of Economics and Public Finances, Institute of Statistics and Censuses, accessed March 18, 2013, [http://www.indec.gov.ar/nuevaweb/cuadros/14/internet\\_12\\_12.pdf](http://www.indec.gov.ar/nuevaweb/cuadros/14/internet_12_12.pdf).

differences, National access points in geographically remote areas such as Patagonia and the Northwest contribute to this urban-rural divide.<sup>12</sup> The average broadband plan costs 115 pesos (US\$23) per month for the first twelve months, compared to a minimum monthly wage of 2,875 pesos (US\$560). While some studies indicate that the average cost of a broadband plan could be almost twice the aforementioned figure, such cost disparity is likely the result of differing scopes of analysis—if only the initial price of service is analyzed, a lower cost estimate results; if cost is based on average prices for the first two years of service, a higher cost estimate is seen.<sup>13</sup>

In recent years, the Argentine government has accelerated its efforts to promote internet access via a number of progressive policies. These include: the Digital Agenda of 2009, which established a national plan for ICTs to connect citizens with government institutions in order to create a “knowledge society;” the Argentina Connected Plan of 2010, a five-year initiative to expand infrastructure and telecommunications services to the entire country; and the Equal Connection Plan of 2010, which led to the provision of internet connections at all public secondary schools and laptop computers for students throughout the country. Although universal service obligations have been in place since 2001, the Universal Service Trust Fund, a government initiative predicated on the enforcement of access commitments, was not enacted until November 2010.<sup>14</sup>

As of 2013, these policies have resulted in increasing internet access in rural areas, schools, parks, and public spaces.<sup>15</sup> Some provinces have also made arrangements with the national government to build a wider fiber-optic network. In certain areas, rural cooperatives are responsible for the installation of the network, resulting in significant growth in local penetration rates, and allowing provincial governments to plan for future triple play service.<sup>16</sup> Considering the national government’s share of the mobile spectrum, discussions have arisen regarding the availability of tetra play service (a bundled service package of broadband internet, television and telephone along with wireless service provisions) in the near future. Should the federal government decide to move

<sup>12</sup> Interview with employee of the Library of the National Communications Commission,, February 18, 2012.

<sup>13</sup> Hernán Galperín, “Prices and Quality of Broadband in Latin America: Benchmarking and Trends,” Center for Technology and Society, University of San Andrés, August 2012, [http://www.udesa.edu.ar/files/AdmTecySociedad/12\\_ENG.pdf](http://www.udesa.edu.ar/files/AdmTecySociedad/12_ENG.pdf).

<sup>14</sup> The Universal Service Trust Fund reinvests one percent of profits from ICT telecommunications companies’ profits to narrow the gap in access to broadband services across provinces.

<sup>15</sup> “Inclusión Digital fue Eje de las Políticas Llevadas Adelante,” [Digital Inclusion was the Center of the Policies], *Terra Noticias*, December 19, 2012, <http://noticias.terra.com.ar/inclusion-digital-fue-eje-de-las-politicas-llevadas-adelante,474e7ceb0e2bb310VgnCLD2000000ec6eb0aRCRD.html>; “,” [The Equal Connection Plan Continues its Success in 2013], *AE Tecno*, December 24, 2012, <http://tecnologiaeconomia.com/noticias/programa-argentino-conectar-igualdad-continua-con-exito-hacia-el-2013>; “Rural Schools and Islands Will Connect to Internet Through Satellite Antennas,” *Diario Victoria*, August 3, 2012, <http://www.diariovictoria.com.ar/2012/08/escuelas-rurales-y-de-islas-contaran-con-conexion-a-internet-a-traves-de-antenas-satelitales/>; “Escuelas Rurales y de Islas Contarán con Conexión a Internet a Través de Antenas Satelitales” [Island and Rural Schools will have Internet Connection via Satellite Dishes], July 30, 2012, <http://www.argentinaconectada.gob.ar/notas/3266-avanza-la-instalacion-internet-satelital-escuelas-rurales-y-frontera>; Angeles Castro, “Ochenta Plazas Tendrán Acceso a Internet” [Eighty Parks will have Internet Access], *La Nación*, July 2, 2012, <http://www.lanacion.com.ar/1486839-ochenta-plazas-tendran-acceso-a-internet>.

<sup>16</sup> “El 91% de los Neuquinos Tiene Acceso a Banda Ancha en su Casa” [91% of Neuquen People Have Broadband Access at Home] *La Mañana Neuquen*, January 21, 2013, [http://www.lmneuquen.com.ar/noticias/2013/1/21/el-91-de-los-neuquinos-tiene-acceso-a-banda-ancha-en-su-casa\\_175489](http://www.lmneuquen.com.ar/noticias/2013/1/21/el-91-de-los-neuquinos-tiene-acceso-a-banda-ancha-en-su-casa_175489); “Cooperativas Instalaron Fibra Optica en el Sur Cordobes” [Cooperatives Installed Fiber Optics in the South of Cordoba], *El Comercial*, December 27, 2012, <http://bit.ly/GzrS8W>; “Provinces Will Offer their Version of Triple Play Hand in Hand with the Equal Connection Plan”, *iProfesional*, February 2, 2013, <http://bit.ly/13lipo3>; “Implementation of the Network that will Bring Internet to the Whole Province Goes Forward”, *El Esquiú*, January 28, 2013, <http://www.lesquiui.com/notas/2013/1/28/sociedad-269839.asp>.

forward with such offerings, partnerships may be formed with local governments allowing for federal assistance in the form of necessary infrastructure. It is in this context that the government has deemed the Federal Wireless Network an issue of public interest, a classification which will prioritize the expansion of national internet access.<sup>17</sup> In keeping with its expanding ICT investment, the Argentine government is now building the first three communications satellites in the country's history.<sup>18</sup>

The aforementioned government initiatives have resulted in a surge of data traffic over the national network.<sup>19</sup> Although this is a boon to projects dedicated to increasing internet access, in some cases, such occurrences have been detrimental to quality of service.<sup>20</sup> Despite new installations of network access points designed to improve the user experience, the regional landscape has resulted in small businesses being provided with lower quality than residential users.<sup>21</sup> The government has spent substantial time and money improving the national network, however connection gaps remain in some provinces, where penetration rates remain as low as 25 percent.<sup>22</sup>

When the telecommunications industry was privatized in the 1980s, the former state-owned operator was split into two companies: Telecom Argentina, which covers the Northern region of the country, and Telefonica de Argentina, which covers the South. Some 300 other companies have since been granted licenses to operate as internet service providers (ISPs).<sup>23</sup> Many of these enterprises are regional providers and serve as provincial subsidiaries of the aforementioned umbrella companies or other large firms such as Fibertel (of Grupo Clarín), which also controls a notable share of the broadband market.<sup>24</sup>

To date, the State has not interfered with international internet connectivity. However, as part of the Argentina Connected Plan, the government has begun work on an internal state-sponsored fiber-optic cable backbone, to be managed by a government-owned firm upon its completion, which is

<sup>17</sup> "Declaran de interés público la Red Federal Inalámbrica" [Federal Wireless Network Declared A Public Interest], *Ambito*, December 17, 2012, <http://ambito.com/noticia.asp?id=667793>.

<sup>18</sup> "Por Primera Vez Argentina Construirá Tres Satélites de Comunicaciones" [For the First Time Argentina Will Build Three Communications Satellites], *Ambito*, September 10, 2012, <http://www.ambito.com/noticia.asp?id=653735>.

<sup>19</sup> Canal AR, "En un Año Se Cuadruplicó el Tráfico de Datos en la Red Nacional de NAP" [In One Year the Data Traffic of the NAP National Network Quadrupled], Canal AR, September 13, 2012, <http://www.canal-ar.com.ar/nota.asp?id=17758>.

<sup>20</sup> "Argentina Ocupa el 38 Lugar en la Calidad del Acceso a Internet" [Argentina Ranks 38<sup>th</sup> on Internet Quality], *El Esquiú*, September 7, 2012, <http://www.elesquiú.com/notas/2012/9/7/tecnologia-253616.asp>.

<sup>21</sup> "Center in La Plata will Improve Internet Connection", Bureau de Presa, June 7, 2012,

[http://www.bureaudeprensa.com/comunicados/view.php?bn=bureaudeprensa\\_inte&key=1339083712](http://www.bureaudeprensa.com/comunicados/view.php?bn=bureaudeprensa_inte&key=1339083712); "Brasil y Argentina Lideran el Ranking de Centros de Interconexión a Internet" [Brazil and Argentina Lead the Ranking of Internet Interconnection Centers], CABASE, December 18, 2012, <http://www.cabase.org.ar/wordpress/brasil-y-argentina-lideran-el-ranking-de-centros-de-interconexion-a-internet/>; Jorge Gustavo, "Las Pymes Reciben Peor Servicio de Banda Ancha que el Segmento Residencial" [Small Businesses Have Worst Internet Quality than Residential Segment], *Cronista*, January 28, 2013, <http://bit.ly/123ngzN>.

<sup>22</sup> "ArSat Invest 830 Million Dollars on Telecommunications," *Prensario Internacional*, July 17, 2012; "Conectar "Desigualdad": Más del 75% de los Hogares de Jujuy No Poseen Acceso a Internet" ['Unequal' Connection: 75% of the Homes in Jujuy Lack Internet Access], *Jujuy al Día*, January 9, 2013, <http://www.jujuyaldia.com.ar/2013/01/09/conectar-desigualdad-mas-del-75-de-los-hogares-de-jujuy-no-poseen-acceso-a-internet/>; National Institute of Statistics and Censuses, "Encuesta Nacional sobre Acceso y Uso de Tecnologías de la Información y la Comunicación (ENTIC)" [National Inquiry on Access and Use of TICs], December 11, 2012, [http://www.indec.gov.ar/nuevaweb/cuadros/novedades/entic\\_11\\_12\\_12.pdf](http://www.indec.gov.ar/nuevaweb/cuadros/novedades/entic_11_12_12.pdf).

<sup>23</sup> "Información de las Empresas" [Business Information], National Communications Commission, accessed March 20, 2012, <http://www.cnc.gov.ar/ciudadanos/internet/empresas.asp?offset=0>.

<sup>24</sup> "Argentina Broadband Overview," Point-Topic.

currently scheduled for 2015.<sup>25</sup> It remains to be seen whether or not this project will result in greater centralization – and greater government control – of the backbone.

Mobile phone penetration in Argentina is significantly higher than internet usage, with 59 million lines active as of late 2012,<sup>26</sup> or 143 cellular telephone subscriptions per 100 inhabitants.<sup>27</sup> The mobile phone market in Argentina is dominated by three providers: Telefonica's Movistar, Telecom's Personal, and Claro, owned by Mexican billionaire and world's richest man Carlos Slim Helu.<sup>28</sup> Each provider covers approximately one third of the market; all offer 3G services.

Following a 2004 agreement that permitted Telefónica to buy Movicom, a cell phone company that was utilizing 850MHz and 1900 MHz cellular frequencies, the government has restricted the use of those specific bands.<sup>29</sup> In accordance with the purchase agreement for Movicom, Telefónica was required to relinquish the frequencies to the state free of charge in order to avoid concentration of the radio-electric spectrum in the hands of a few. After repeated postponement of auctions for the frequency bands in 2012, the situation was finally resolved by the federal government. President Fernandez de Kirchner announced that Libre.ar, a branch of government-owned corporation ArSat, would administer the frequencies, offering cellular phone services through small businesses and telephone cooperatives.<sup>30</sup> This decision, implemented via Resolution 71/2012 of the Communication Secretariat,<sup>31</sup> (and justified with the rationale that only one of the companies bidding for the bands met necessary requirements related to future investment and development<sup>32</sup>) allows the government to regain control over the mobile sector.<sup>33</sup> To date, such control has not extended to the government overtaking ICTs.

The Argentine government planned to launch its proprietary mobile service in March 2013, through an arrangement with Movistar, Personal, and Claro that allows the three providers to use state-owned frequencies. As of publication, however, the government's mobile service had not yet been launched. When implemented, the agreement will allow some telephone cooperatives and small

<sup>25</sup> Government-owned corporation AR-SAT would manage the network. AR-SAT began operating in July 2006. Its stated purpose is to promote the Argentine space industry and increase satellite services to different parts of the country. AR-SAT Company website: <http://www.arsat.com.ar>.

<sup>26</sup> National Institute of Statistics and Censuses, "Historic Series of Communications: Active Cellphones," National Communications Commission, accessed June 5, 2012, [http://www.indec.gob.ar/nuevaweb/cuadros/14/sh\\_comunicac2.xls](http://www.indec.gob.ar/nuevaweb/cuadros/14/sh_comunicac2.xls)

<sup>27</sup> International Telecommunication Union, "Statistics: Mobile-Cellular Subscriptions, 2000-2012," June 17, 2013, [http://www.itu.int/en/ITU-D/Statistics/Documents/statistics/2013/Individuals\\_Internet\\_2000-2012.xls](http://www.itu.int/en/ITU-D/Statistics/Documents/statistics/2013/Individuals_Internet_2000-2012.xls).

<sup>28</sup> "The Richest People on the Planet 2013," *Forbes*, April 4, 2013, <http://www.forbes.com/billionaires/>.

<sup>29</sup> Gekkye, "Argentina Licita Frecuencias de Telefonía Celular" [Argentina Bids Cellular Telephony Frequencies], Geekye online, June 6, 2012, <http://geekye.infonews.com/2012/06/06/tecnologia-23977-argentina-licita-frecuencias-de-telefonía-celular.php>.

<sup>30</sup> Marcelo Canton, "Ponen en Marcha la Empresa Estatal de Celulares" [Libre.ar, The State Mobile Company Started Working], *Clarín*, December 14, 2012, [http://www.clarin.com/politica/Ponen-empresa-estatal-celulares-Librear\\_0\\_828517184.html](http://www.clarin.com/politica/Ponen-empresa-estatal-celulares-Librear_0_828517184.html); Juan Pedro Tomás, "Nuevamente Retrasan Licitación de Espectro Móvil" [Once More, Bid for the Mobile Spectrum is Delayed], *BN Americas*, June 8, 2012, <http://bit.ly/1eUxPvI>.

<sup>31</sup> Resolution 71/2012, Communications Secretariat, Contabilis, <http://contabilis.com.ar/legislacion/resoluciones/resolucion-71-2012-sec-comunicaciones>.

<sup>32</sup> "Planificación Anunció que ARSAT Explotará Frecuencias para Telefonía Celular" [It was Announced that ArSat Will Exploit Cellular Phone Frequencies], *TELAM*, September 9, 2012, <http://www.telam.com.ar/nota/37042/>.

<sup>33</sup> "Estado Administrará 25% del Espectro para Servicios Móviles con ARSAT" [The State will Administer 25% of the Mobile Services Specter], *Media Telecom*, December 14, 2012, <http://bit.ly/15F0VvO>.

businesses to resell these services,<sup>34</sup> a development viewed by the cooperatives as an opportunity to gain recognition in the mobile services arena.<sup>35</sup> The new plan is also attractive to foreign investors looking to enter Latin America's mobile services market, such as Chinese telecommunications firm Datang Mobile, which views Argentina as the most profitable point of entry due to its large number of cellphones and potential to embrace 4G services.<sup>36</sup>

The government's proposed mobile service has the potential to catalyze positive change in the industry, especially given that mobile providers currently face harsh criticism related to poor performance and high prices.<sup>37</sup> Accordingly, all three major providers have stated their plans to invest in infrastructure during 2013 in order to expand and improve fixed line and mobile networks.<sup>38</sup> Another positive development in this field concerns a debate currently before the Senate over a law that obligates companies to commercialize cell phones for people with hypoacusis, or partial hearing loss.<sup>39</sup> If passed, this law would define the provision of mobile phones as a public service, a classification which has been subject to national debate, but which would ameliorate the high prices that telecommunications companies currently charge.<sup>40</sup>

Private companies wishing to operate as ISPs must first obtain a license from the communications commission, Comisión Nacional de Comunicaciones (CNC).<sup>41</sup> The CNC functions under the communications secretariat, Secretaría de Comunicaciones, as a decentralized entity. Both operate

<sup>34</sup> Alejandro Alfie, "El Gobierno Profundiza su Acuerdo con las Telefónicas" [The Government deepens the agreement with the Cell Phone Companies], *Clarín*, January 4, 2013, [http://www.clarin.com/politica/Gobierno-profundiza-acuerdo-telefonicas\\_0\\_841115952.html](http://www.clarin.com/politica/Gobierno-profundiza-acuerdo-telefonicas_0_841115952.html).

<sup>35</sup> "Expectativa Entre las Cooperativas Para Poder Dar Servicio de Telefonía Móvil" [Expectations from the Telephone Cooperatives for the Possibility of Rendering the Mobile Service], *Telam*, September 9, 2012, <http://www.telam.com.ar/nota/38902/>.

<sup>36</sup> "El Negocio de las Telecomunicaciones Atrae el Interés Chino" [Chinese Interest in National Telecommunications], *Telam*, October 7, 2012, <http://www.telam.com.ar/nota/40165/>.

<sup>37</sup> "Los Celulares Van al Tópe del Ranking de Reclamos" [Mobile Services Rank First on Complaints] *El Día*, November 5, 2012, <http://www.eldia.com.ar/edis/20121105/los-celulares-van-tope-del-ranking-reclamos-laciudad7.htm>; "Argentina Paga la Telefonía Celular Más Cara del Mundo" [Argentina Pays Most Expensive Mobile Service in the World], *La Capital*, November 1, 2012, <http://www.lacapital.com.ar/informacion-gral/Argentina-paga-la-telefonía-celular-mas-cara-del-mundo-20121101-0042.html>; Martin Grosz, "Celulares: Hablar con Tarjeta Cuesta Hasta 6 Veces Más que el Abono Fijo" [Pre-Paid Plans Are 6 Times More Expensive than Normal Plans], *Clarín*, December 28, 2012, [http://www.clarin.com/sociedad/Celulares-hablar-tarjeta-cuesta-abono\\_0\\_836916401.html](http://www.clarin.com/sociedad/Celulares-hablar-tarjeta-cuesta-abono_0_836916401.html).

<sup>38</sup> "Personal Avanza con un Plan de Reconversion Tecnológica" [Personal Plans a Technologic Rationalization], *Terra Noticias*, January 13, 2013, <http://noticias.terra.com.ar/personal-avanza-con-un-plan-de-reconversion-tecnologica,ade598ce1e34c310VgnCLD2000000ec6eb0aRCRD.html>; "Telefónica Invertirá 2,045 Mdd en Argentina" [Telefonica Will Invest 2,045 Million Dollars in Argentina], *Reuters via El Economista*, December 18, 2012, <http://eleconomista.com.mx/industria-global/2012/12/18/telefonica-invertira-2045-mdd-argentina>; José Crettaz, "Claro Anunció una Inversión de US\$ 400 Millones en su Red Móvil, Unilever Invierte \$ 1500 Millones" [Claro Announces a \$400 Million Investment in its Mobile Network, Unilever Invests 1.5 Billion], *La Nación*, November 8, 2012, <http://bit.ly/Z3qHCv>.

<sup>39</sup> "El Senado Aprobó Ampliar el Acceso a la Telefonía Móvil para Personas Hipoacúsicas" [Senate Approved Access to Mobile Network of Persons with Hypoacusis], *Diario Victoria*, November 29, 2012, <http://www.diariovictoria.com.ar/2012/11/el-senado-aprobo-ampliar-el-acceso-a-la-telefonía-movil-para-personas-hipoacusicas/>.

<sup>40</sup> "Giustiniani y la Cruzada para que el Celular Sea Servicio Público" [Giustiniani and the Crusade for the Cellular Telephone as a Public Service], *La Capital*, July 2, 2012, <http://www.lacapital.com.ar/la-ciudad/Giustiniani-y-la-cruzada-para-que-el-celular-sea-servicio-publico-20120702-0048.html>.

<sup>41</sup> National Communications Commission, "Decree 764/2000 Annex 1" [in Spanish], accessed March 20, 2012, [http://www.cnc.gov.ar/normativa/Dec764\\_00-AnexoI.pdf](http://www.cnc.gov.ar/normativa/Dec764_00-AnexoI.pdf).

under the authority of the Ministry of Federal Planning, Public Investment, and Services.<sup>42</sup> Upon receipt of an application, the CNC refers the submission to the Secretariat of Communications, which makes the final decision to grant a license. The applicant is required to pay a relatively modest sum of 5,000 Argentine pesos (\$1,100) at the time of submission.<sup>43</sup> The licensing process for mobile phone providers is similar; once approved, no additional fees are charged, however providers are required to pay special taxes, such as those specified under the Universal Service Trust Fund. Cybercafe licenses are processed like those of any other small business; no additional approvals are required.

Although the statutory composition of the CNC offers some degree of independence, per Presidential Decree 521, the executive branch has run the body since 2002 in order to increase efficiency.<sup>44</sup> The decree provides for an ad hoc administrator (*interventor*) appointed by the president, —who fulfills the functions of the CNC president and board of directors and also appoints other commission members at his or her discretion. This arrangement has detracted from the independence of the institution, but there have been few complaints about corruption or unfairness in the CNC’s operations. Since 2010, controversy and accusations of political bias have emerged surrounding one case, Fibertel’s ISP license, indicating a degree of public mistrust of the regulator.<sup>45</sup> A case relating to these charges has been pending before a federal court since March 2013.

## LIMITS ON CONTENT

Argentine internet users have access to a wide array of online content, including international and local news outlets, websites of political parties, and civil society initiatives. The government does not impose automated filtering or restrictions on politically oriented information. However, websites related to pornography are blocked in educational institutions, libraries, and other public locations in Buenos Aires in accordance with Law 2974.<sup>46</sup> In recent years, controversy has emerged over the blocking of allegedly defamatory material, copyright protected content, and injunctions that invoke intermediary liability. A few projects related to these issues were recently taken up in Congress.

Various social media tools, such as the social networking site Facebook, the video-sharing platform YouTube, and the microblogging service Twitter are freely available in Argentina. In August 2011, however, Google’s blog-hosting platform Blogger was blocked for nearly one week following a

<sup>42</sup> Ministry of Federal Planning, “Organization Chart” [in Spanish], Public Investment and Services, accessed June 6, 2012, <http://institucional.minplan.gov.ar/html/organigrama/>.

<sup>43</sup> National Communications Commission, “Guide for License Applications,” accessed March 20, 2012, [http://www.cnc.gov.ar/infotecnica/archivos/Guide\\_Licence%20Application\[eng\].pdf](http://www.cnc.gov.ar/infotecnica/archivos/Guide_Licence%20Application[eng].pdf).

<sup>44</sup> National Communications Commission, Presidential Decree N° 521/2002 [in Spanish], March 20, 2002, [http://www.cnc.gov.ar/institucional/biblioteca/buscador/Normativa/pdf/Decreto-521\\_02.pdf](http://www.cnc.gov.ar/institucional/biblioteca/buscador/Normativa/pdf/Decreto-521_02.pdf).

<sup>45</sup> “Pressed: Argentina’s Media,” *The Economist*, August 25, 2010, [http://www.economist.com/blogs/americasview/2010/08/argentinas\\_media](http://www.economist.com/blogs/americasview/2010/08/argentinas_media); “Federal Judge Freezes Order to Cancel Fibertel’s License, Govt to Appeal,” *Business News Americas*, September 27, 2010, [http://www.bnamericas.com/news/telecommunications/Federal\\_judge\\_freezes\\_order\\_to\\_cancel\\_Fibertel\\*s\\_license\\_govt\\_to\\_appeal](http://www.bnamericas.com/news/telecommunications/Federal_judge_freezes_order_to_cancel_Fibertel*s_license_govt_to_appeal).

<sup>46</sup> Argentine Federal Government, Law No. 2974, CEDOM; <http://www.cedom.gov.ar/es/legislacion/normas/leyes/ley2974.html>

court decision to restrict access to two URLs for websites titled *Leaky Mails* functioning as local spinoffs of WikiLeaks, one hosted on Blogspot, a Blogger service which provides domain names.<sup>47</sup> These websites had published the correspondence of government officials, politicians, journalists, and other public figures. Much of the content on the sites appeared to be personal in nature and irrelevant to both public policy and the exposition of malfeasance and corruption.<sup>48</sup> ISPs complied with the court order and blocked access to the IP addresses of the two pages, effectively blocking the entire Blogger platform, including over one million blogs not specified in the judicial order. After criticism from the public and Google, the block was lifted within one week and ISPs shifted to a more precise filtering technique.<sup>49</sup> As of May 2013, the *Leaky Mails* blog remains inaccessible. The Blogger domain has not had any additional site-wide disruptions.

The judicial action taken against the Cuevana website in 2011 and 2012 also garnered public attention. Launched in 2009, the website, which catalogues and connects users to sites that enable the free streaming of movies and television programs, quickly became one of the most visited websites in Argentina and the largest of its kind in Latin America. Since late 2011, various international content producers, including HBO, Turner Argentina, 20<sup>th</sup> Century Fox, and Disney Enterprises, have filed lawsuits against the site alleging infringement of intellectual property rights.<sup>50</sup> In November 2011, the National Court of First Instance issued a directive requiring ISPs to block certain programs on Cuevana's website.<sup>51</sup> In March 2012, prosecutors opened a criminal case against the site's administrator, alleging that the site had profited from copyrighted materials via financial donations. The administrator denied the charges, claiming that donations were largely voluntary and that profits had been reinvested.<sup>52</sup> If he is found guilty, the administrator could face up to six years in prison. In January 2013, the Buenos Aires Federal Criminal Court of Appeals rejected a request by HBO Ole Partners to completely block the site.<sup>53</sup> The court determined that the measure was disproportionately broad, especially given that no suspect had been formally identified (the administrator was the only person mentioned in the suit) and that the location of the server was still unknown. It has not yet been determined whether Cuevana is an indexation site

<sup>47</sup> National Communications Commission, "A Todos los Licenciarios de Telecomunicaciones que Brindan Servicios de Acceso a Internet" [All Telecom licensees providing Internet Access services], accessed March 20, 2012, [http://www.cnc.gov.ar/noticia\\_detalle.asp?idnoticia=106](http://www.cnc.gov.ar/noticia_detalle.asp?idnoticia=106).

<sup>48</sup> "La Justicia Bloqueó al 'WikiLeaks' Argentino" [Justice Blocked the Argentine 'Wikileaks'], *TN Cable*, August 11, 2011, <http://tn.com.ar/politica/00062732/juez-pidio-bloquear-al-%E2%80%99wikileaks%E2%80%9D-argentino>; "A Todos los Licenciarios de Telecomunicaciones que Brindan Servicios de Acceso a Internet."

<sup>49</sup> "Google Denuncia un Bloqueo de sus Blogs en la Argentina" [Google Reports Blockage of Blogs in Argentina], *TN Cable*, August 19, 2012, <http://tn.com.ar/tecnologia/00064541/google-denuncia-un-bloqueo-masivo-de-sus-blogs-en-la-argentina>.

<sup>50</sup> "Cuevana Suma Más Problemas" [Cuevana Has More Problems], *Clarín*, March 7, 2012, [http://www.clarin.com/internet/mundo\\_web/titulo\\_0\\_659334165.html](http://www.clarin.com/internet/mundo_web/titulo_0_659334165.html); "Cuevana: Abren Causa Penal Contra los Dueños del Sitio en Argentina" [Cuevana: Open Criminal Case Against the Owners of the Site in Argentina], *La Tercera*, March 16, 2012, <http://bit.ly/zjW8g3>.

<sup>51</sup> Juan Pablo De Santis, "La Justicia Pidió Bloquear el Acceso a Series en Cuevana" [Justice Blocks Access to TV Shows in Cuevana], *La Nación*, November 30, 2011, <http://bit.ly/GzsTxc>.

<sup>52</sup> Gonzalo Larrea, "Argentina Opens Criminal Case Against Cuevana," *TTV Media News*, [http://www.ttvmedianews.com/scripts/templates/estilo\\_notas.asp?nota=eng%2Ftech%2Finternet%2F2012%2F03\\_Marzo%2F16\\_justicia\\_vs\\_cuevana](http://www.ttvmedianews.com/scripts/templates/estilo_notas.asp?nota=eng%2Ftech%2Finternet%2F2012%2F03_Marzo%2F16_justicia_vs_cuevana); Pablo Sirven, "Inician Causa Penal Contra Cuevana" [Criminal Proceedings Initiated Against Cuevana], *La Nación*, March 16, 2012, <http://www.lanacion.com.ar/1456828-inician-causa-penal-contra-cuevana>.

<sup>53</sup> "La Justicia Rechazó Bloquear Acceso a Cuevana" [Justice rejects the blocking of Cuevana], *InfoBae*, February 6, 2013, <http://www.infobae.com/notas/695159-La-Justicia-rechazo-bloquear-el-acceso-a-Cuevana.html>.

controlled by users, or if there are identifiable persons responsible for running the site. The name of the administrator, however, was allegedly in the public domain.

To date, there is no legislation which pertains specifically to intermediary liability in Argentina. As such, cases are decided individually and court decisions tend not to be uniform. In the absence of specific regulations adjudicating liability to intermediaries for illegal content posted by third parties, the courts generally apply broad rules pulled from the procedural law and the civil code. Injunctions ordering takedown of content are also based on general rules.

By the end of 2012, multiple cases regarding intermediary liability were presented before the courts,<sup>54</sup> resulting in rulings against Google and Yahoo requiring the removal of sensitive material. The individuals responsible for posting the material in question were in some cases ordered to pay damages to the prominent public figures that had brought the charges. Actress Paola Krum and model Barbara Lorenzo were among the plaintiffs awarded monetary compensation. Court orders also resulted in Google and Yahoo removing the sensitive material from their search results and blocking illicit images of both Krum and Lorenzo. In a more recent case, search engines were asked to block a pornographic video made by well-known actress Florencia Peña before the video was even uploaded. If found guilty of non-compliance, Google and Yahoo could be fined up to half a million pesos (approximately \$41,000 USD).<sup>55</sup>

Another controversial case regarding the blocking of indecent material surrounds the death of Jazmín De Grazia, a model who drowned in a hot tub in February 2012 due to an alleged drug overdose.<sup>56</sup> Immediately following the incident, photographs of De Grazia's dead body were published by a newspaper and spread over the Internet. In September 2012, a Federal Court of Appeals asked De Grazia's parents to identify the webpages that had published the photos, indicating to Google those sites which search engines were required to have blocked. The judge subsequently issued a ruling that web pages containing information about the model were protected by the right to freedom of speech, and could not be blocked by law.<sup>57</sup>

According to Google's Transparency Report, from July to December 2012, the Argentine government submitted 51 court orders for content removal encompassing 160 items. Google

<sup>54</sup> CIJ, "Ordenan a Google y Yahoo! Eliminar Resultados de Búsqueda Vinculados a la Actriz Paola Krum" [Justice Orders Google and Yahoo! to Block Search Results Related to Actress Paola Krum], September 5, 2012, <http://www.cij.gov.ar/nota-9778-Ordenan-a-Google-y-Yahoo--eliminar-resultados-de-busqueda-vinculados-a-la-actriz-Paola-Krum.html>; "La Justicia Ordenó que Google le Pague a una Modelo Cuya Imagen Aparece en Páginas Porno" [Google Condemned to Pay a Model for Photographs in Porn Webpages], Clarín online, September 7, 2012, [http://www.clarin.com/internet/Justicia-Google-imagen-aparece-paginas\\_0\\_769723247.html](http://www.clarin.com/internet/Justicia-Google-imagen-aparece-paginas_0_769723247.html).

<sup>55</sup> "La Justicia Falló a Favor de Florencia Peña" [Court rules on behalf of Florencia Peña], *Los Andes Estilo*, January 23, 2013, <http://www.losandes.com.ar/notas/2013/1/23/justicia-fallo-favor-florencia-pena-692789.asp>.

<sup>56</sup> "Confirman que Jazmín de Grazia Murió Ahogada" [Jazmin de Grazia Drowned], *La Nación*, February 6, 2012, <http://www.lanacion.com.ar/1446380-investigacion-las-causas-de-la-sorpresiva-muerte-de-jazmin-de-grazia>.

<sup>57</sup> Ines Trnabeme, "Ordenan a Google Eliminar Fotos de Jazmín de Grazia #google #jazmindegrazia #privacidad" [Google to Delete Jazmin de Grazia Photographs], *Hábeas Data*, September 5, 2012, <http://habeasdatacpdp.wordpress.com/2012/09/05/ordenan-a-google-eliminar-fotos-de-jazmin-de-grazia-google-jazmindegrazia-privacidad/>.

complied—at least in part—with 82 percent of the requests.<sup>58</sup> Google’s breakdown indicates that the majority of content was related to defamation (62 percent of the cases), followed by privacy and security (18 percent), hate speech (4 percent), and national security (2 percent), with the remainder of requests uncategorized.

In this context, many legal initiatives arose in 2012 and 2013. Senator Maria Eugenia Estenssoro led a project concerning net neutrality, which incorporated a variety of civil society demands and international standards followed by organizations such as the OAS and the UN. It applied not only to ISPs, but rather to all telecommunication service providers, both public and private.<sup>59</sup> Other initiatives, however, have been met with reproach from civil society due to lack of clear terms. Representative Julián Obiglio’s proposed project relating to intermediary responsibility, 8070-D-2012, faced criticism for disregarding international standards when allowing third parties and administrative bodies to ask ISPs to remove content without judicial order.<sup>60</sup>

Two other projects, 728/12,<sup>61</sup> and 1892-D-12,<sup>62</sup> seek to monitor the web for certain discriminatory and violent content, by surveilling social networks, e-mails and text messages, and requiring businesses to install detection and filtering programs of content unfit for underage persons.<sup>63</sup> Neither of these initiatives has been signed into law. In May 2013, the Senate Freedom of Expression and Technology Commission hosted a session to discuss net neutrality problems and other projects. Initiatives discussed in this session have not yet been made public.

Self-censorship among bloggers and online users is not widespread, and Argentines express a diverse array of views online. Nevertheless, in the interior of the country where the rule of law is weaker than in the capital district, some online journalists and bloggers are cautious about writing about powerful local officials or mining companies due to the possibility of jeopardizing their relationship with private advertisers. Given Argentina’s polarized political environment, some writers may adjust their reporting based on the partisan affiliation of their publication.

In fact, the Argentine federal and local governments are known for their discriminatory allocation of official advertising—excluding news outlets whose reporting has been critical of the government

<sup>58</sup> “Google Transparency Report, Argentina,” July to December 2012, <http://www.google.com/transparencyreport/removals/government/AR/?by=product&p=2012-12>.

<sup>59</sup> Argentine Senate, File 3618/12, [http://www.senado.gov.ar/web/proyectos/verExpe.php?origen=S&tipo=PL&numexp=3618/12&nro\\_comision=&tConsulta=3](http://www.senado.gov.ar/web/proyectos/verExpe.php?origen=S&tipo=PL&numexp=3618/12&nro_comision=&tConsulta=3).

<sup>60</sup> Argentine House of Representatives, File 8070-D-2012, <http://www1.hcdn.gov.ar/proyxml/expediente.asp?fundamentos=si&numexp=8070-D-2012>; Beatriz Busaniche, “Responsabilidad de Intermediarios de Internet: El Debate Pendiente” [Internet Intermediaries’ Responsibility: A Pending Debate], *La Nación*, November 30, 2012, <http://www.lanacion.com.ar/1532025-responsabilidad-de-intermediarios-de-internet-el-debate-pendiente>.

<sup>61</sup> Argentine Senate, File 728/12, [http://www.senado.gov.ar/web/proyectos/verExpe.php?origen=S&tipo=PL&numexp=728/12&nro\\_comision=&tConsulta=3](http://www.senado.gov.ar/web/proyectos/verExpe.php?origen=S&tipo=PL&numexp=728/12&nro_comision=&tConsulta=3)

<sup>62</sup> Argentine House of Representatives, File 1892-D-2012, <http://www1.hcdn.gov.ar/proyxml/expediente.asp?fundamentos=si&numexp=1892-D-2012>.

<sup>63</sup> Carlos Cortes, “Vigilance on the Internet,” CELE-iLEI, July 2012, <http://www.palermo.edu/cele/pdf/El-deseo-de-observar-la-red.pdf>; Beatriz Busaniche, “Protección de Menores y Libertad de Expresión en Internet” [Protection of Minors and Freedom of Speech on the Internet], *La Nación*, August 15, 2012, <http://www.lanacion.com.ar/1498094-proteccion-de-menores-y-libertad-de-expresion-en-internet>.

and rewarding those who publish supportive media.<sup>64</sup> This phenomenon has had a negative impact on freedom of expression, particularly in the print and broadcast media sectors.<sup>65</sup> While funds allocated to internet activities represent only three percent of the federal advertising budget, during the first semester of 2012, 42 percent of that sum was assigned to only 10 beneficiaries, all with clear ties to the federal government.<sup>66</sup> In March 2011, the Supreme Court ruled unanimously that the government must utilize equitable measures in its distribution of state advertising.<sup>67</sup> Due to the government's non-compliance, the Federal Court of Appeals issued a new request in August 2012 urging the state to abide by the law.<sup>68</sup> To date, the government has faced no penalties for non-compliance.

There are no restrictions on access to national or foreign news sources, and Argentines are able to express themselves freely online. According to some observers, the vigor of the pro-government blogosphere has increased since 2009, although other oppositional political parties have also started to gain ground.<sup>69</sup> A wide range of views are shared online, including those related to potentially sensitive topics such as the recent designation of Pope Francisco despite allegations that he was complicit in abuses carried out by the Argentine Government in 1976.<sup>70</sup> Opinions regarding the controversial Argentina-Iran agreement—which concerns the 1990s terrorist attack of a Jewish Association in Buenos Aires—are also voiced online.<sup>71</sup> Despite such vigorous discussion, journalists have complained about a lack of access to government representatives and a dearth of official press conferences. In 2009, an online portal called *Mejor Democracia* (“Better Democracy”), which provided the public with government-related information, was shut down. When it later reopened,

<sup>64</sup> “*Dimensión de la Publicidad Oficial en la Argentina*” [The Dimension of Official Publicity in Argentina], Poder Ciudadano, accessed March 20, 2012, <http://poderciudadano.org/wp/wp-content/uploads/2011/12/Informaci%C3%B3n-preliminar-PO-Poder-Ciudadano.pdf>; Asociación por los Derechos Civiles and Open Society Justice Initiative, “Buying the News: A report on Financial and Indirect Censorship in Argentina,” Open Society Institute (2005), <http://www.censuraindirecta.org.ar/advf/documentos/48ee57ee263549.92961213.pdf>.

<sup>65</sup> Poder Ciudadano, “Dimensión de la Publicidad Oficial en la Argentina.”

<sup>66</sup> Juan Pablo de Santis, “*En Internet, el Dinero de la Publicidad Oficial También Queda en Pocas Manos*” [On the Internet, Official Advertising is Also in the Hands of a Few], *La Nación*, March 21, 2013, <http://www.lanacion.com.ar/1564903-en-internet-el-dinero-de-la-publicidad-oficial-tambien-queda-en-pocas-manos>.

<sup>67</sup> IFEX, “Supreme Court Urges Government to Avoid Bias in Allocating State Advertising,” news release, March 8, 2011, [http://www.ifex.org/argentina/2011/03/08/omit\\_discriminatory\\_criteria/](http://www.ifex.org/argentina/2011/03/08/omit_discriminatory_criteria/); Committee to Protect Journalists, “Supreme Court Tells Argentina to Avoid Bias in Allocating Ads,” March 4, 2011, <http://cpj.org/2011/03/supreme-court-urges-argentina-to-avoid-bias-in-all.php>.

<sup>68</sup> “*La Publicidad Oficial*” [The Official Advertising], *Página 12*, August 15, 2012, <http://www.pagina12.com.ar/diario/elpais/1-201096-2012-08-15.html>; *Clarín*, “*Publicidad Oficial: Otro Fallo en Favor de Perfil*” [Official Advertising: Another Ruling Benefits Perfil], *Clarín*, August 15, 2012, [http://www.clarin.com/politica/Publicidad-oficial-fallo-favor-Perfil\\_0\\_755924464.html](http://www.clarin.com/politica/Publicidad-oficial-fallo-favor-Perfil_0_755924464.html); Editorial Perfil SA c/ Federal Government – Chief of Staff of Ministers – SMCs under Law 16.986, March 2011; Editorial Black River [Rio Negro] SA c/ Neuquén Province s/amparo, Fallos 330:3907, September 2007.

<sup>69</sup> Jorge Gobbi, “Argentina: Presidential Elections, a Review of Blogs,” *Global Voices*, October 26, 2011, <http://globalvoicesonline.org/2011/10/26/argentina-presidential-elections-a-review-of-blogs/>.

<sup>70</sup> Mariano Castillo, “Humble Pope Has Complicated Past,” CNN, March 16, 2013, <http://www.cnn.com/2013/03/14/world/americas/argentina-pope-profile>; Luis Majul, “*Francisco le Gana a CFK en Todos los Frentes*” [Francisco Beats CFK on Every Front], *La Nación*, March 21, 2013, <http://www.lanacion.com.ar/1565328-francisco-le-gana-a-cfk-en-todos-los-frentes>.

<sup>71</sup> Hernan Capiello, “*Buscan Anular en la Justicia el Acuerdo con Irán*” [The Jewish Community is Trying to Annul the Treaty with Iran], *La Nación*, March 1, 2013, <http://www.lanacion.com.ar/1558988-buscan-anular-en-la-justicia-el-acuerdo-con-iran>.

it did so with reduced transparency, offering notably less information than in its previous incarnation.<sup>72</sup> This is true to the present day.

Most civil society organizations also maintain their own websites, although user engagement in sociopolitical movements is relatively low. Mobile phones, meanwhile, are increasingly being used as a tool for activism; such devices will likely play decisive roles in future political movements.<sup>73</sup> Mobile phone users have also utilized social media in order to protest poor quality of service by orchestrating cellular blackouts, or periods of time when large groups of users refuse to use their cellphones. Such measures have also been applied to social networks such as Twitter (#14N) and Facebook (*Apagón Celular de Facebook*, also known as the Cell Blackout Facebook Group).<sup>74</sup>

The popularity of social media tools has grown overall in recent years. By April 2012, Argentina had over 20 million registered Facebook users, representing almost 50 percent of the population,<sup>75</sup> as well as approximately 1.6 million Twitter users.<sup>76</sup> In late 2012, a major antigovernment protest known as 8N (November 8) was mobilized using social media. The movement, which culminated in thousands of people taking to the streets of Buenos Aires, Mendoza, Cordoba, and other cities to protest corruption, violent crime, diminishing freedom of expression, and inflation, was organized over Twitter (#8N) and Facebook. Throughout the protest, photos, videos, and opinions appeared on Twitter, both in support of the movement (#8NYoVoyPorQue, “I go because”) and against it (#8NYoNoVoyPorQue, “I don’t go because”). Even those not in favor of protesting were largely in agreement over the problems Argentina is facing, and saw the movement as a catalyst to make use of social media to call for change through various avenues such as reform and voting.<sup>77</sup> The scope of the campaign, which began informally on social networks, was so large that shadow protests occurred outside Argentine embassies in locations as far flung as Rome and Sydney.<sup>78</sup> 8N was the largest protest in Argentina in over a decade, mobilizing at least 30,000 people in Buenos Aires according to local police, a figure which regional media placed closer to 100,000.<sup>79</sup>

<sup>72</sup> Asociación por los Derechos Civiles, “Califican de ‘Retrosceso’ el Bloqueo de la Web Oficial” [‘Regression’ Rating Blocks Official Website], October 8, 2009, [http://www.adc.org.ar/sw\\_contenido.php?id=643](http://www.adc.org.ar/sw_contenido.php?id=643).

<sup>73</sup> Lourdes Cajrdenas, “ONG Movilizan a Ciudadanos por Celular” [NGOs Mobilize Citizenship by Cellphone], CNN Expansion, January 15, 2010, <http://www.cnnexpansion.com/expansion/2009/12/11/Mensajes-sin-excusas>.

<sup>74</sup> “Convocan a un Apagón de Celulares el Miércoles” [Mobile Blackout on Wednesday], *La Nación*, November 13, 2012, <http://www.lanacion.com.ar/1525892-convocan-a-un-apagon-de-celulares-el-miercoles>.

<sup>75</sup> Social Bakers, “Argentina: Facebook Statics,” accessed February 1, 2013, <http://www.socialbakers.com/facebook-statistics/argentina>.

<sup>76</sup> New Media Trend Watch, “Markets by Country: Argentina,” European Travel Commission (2012) <http://www.newmediatrendwatch.com/markets-by-country/11-long-haul/35-argentina>.

<sup>77</sup> Laura Schneider, “#8N: Nueva Protesta Masiva en Argentina” [#8N: New Massive Protest in Argentina], *Global Voices*, November 9, 2012, <http://es.globalvoicesonline.org/2012/11/09/8n-nueva-protesta-masiva-en-argentina/>.

<sup>78</sup> “Bergman: ‘Hubo Organización y Logística en la Marcha del 8N’” [Bergman: Organization and Logistic Work for the 8N Mobilization], *El Intransigente*, November 8, 2012, <http://www.elintransigente.com/notas/2012/11/8/bergmanhubo-organizacion-logistica-marcha-del-8n-155979.asp>; “Una Multitud se Movilizó en el 8N y Hubo Cacerolazos en Casi Todo el País” [Big Crowd for the 8N and ‘Cacerolazos’ in Nearly the Whole Country], *La Nación*, November 8, 2012,

<http://www.lanacion.com.ar/1524741-cacerolazo-8n>; Conz Preti, “Argentines Take to the Streets to Protest,” *ABC News*, November 8, 2012, [http://abcnews.go.com/ABC\\_Univision/News/page/argentines-world-streets-protest-17673951](http://abcnews.go.com/ABC_Univision/News/page/argentines-world-streets-protest-17673951).

<sup>79</sup> Damian Pachter, “Argentines Protest in Huge Anti-Government March,” *The Huffington Post*, November 8, 2012, <http://www.huffingtonpost.com/huff-wires/20121108/lt-argentina-anti-government-march/>.

## VIOLATIONS OF USER RIGHTS

The Argentine Constitution and human rights treaties incorporated into the Constitution in 1994 guarantee freedom of expression.<sup>80</sup> Additional laws ensure that citizens have the liberty to express their views without fear of censorship or reprisal. In 2005, constitutional protections were explicitly extended to “the search, reception and dissemination of ideas and information of all kinds via internet services” under Law 26032.<sup>81</sup>

The Argentine judiciary is generally seen as independent, particularly in its higher echelons, such as the Supreme Court of Justice. The Supreme Court has issued several rulings supportive of freedom of expression in recent years. Among these are the aforementioned 2011 decision regarding discriminatory allocation of government advertising, as well as the 2009 suspension of a requirement mandating that service providers retain user data for ten years.<sup>82</sup> The government has also been responsive to decisions of the Inter-American Court of Human Rights and the recommendations of the Inter-American Commission on Human Rights. These procedures have helped accelerate reform of the criminal code’s provisions on insult (*desacato*) and defamation. In November 2009, the legislature decriminalized defamatory statements referring to matters of public interest.<sup>83</sup>

No specific laws criminalize online expression related to political or social issues. The 2008 Law on Cybercrime (Law 26388) amended the Argentine Criminal Code to cover offenses such as hacking, dissemination of child pornography, and other online crimes.<sup>84</sup> Some of the amendments have been criticized as overly vague and imprecise in their wording, which could open the door to broad interpretations. Lawyers and human rights groups have also expressed concern over the country’s antiterrorism law, arguing that the definition of terrorism provided is overly broad and could therefore be employed to punish legitimate political dissent, social protests, or economic analysis.<sup>85</sup> So far, neither of these laws has been used in practice to punish online expression. As of May 2013, no bloggers, online journalists, or ordinary users were imprisoned for the expression of their views in online forums or via private communications. One website administrator, however, was facing criminal charges and a possible jail term over allegations of profiting from copyrighted material.

<sup>80</sup> See Article 14, “Argentine Constitution,” Senate of the Argentine Nation, accessed March 20, 2012, <http://www.senado.gov.ar/web/interes/constitucion/english.php>. The constitution was amended in 1994, and Article 75 (22) now accords numerous international human rights treaties with constitutional status and precedence over national laws.

<sup>81</sup> Law 26032 [in Spanish] (2005), Documentation and Information Center, accessed March 20, 2012, <http://www.infoleg.gov.ar/infolegInternet/anexos/105000-109999/107145/norma.htm>.

<sup>82</sup> Judgment of Halabi v. P.E.N. Argentine Supreme Court, June 26, 2007; Lorenzo Villegas Carrasquilla, “Personal Data Protection in Latin America: Retention and Processing of Personal Data in the Internet Sphere,” Center for Studies in Freedom of Expression and Access to Information, [http://www.palermo.edu/cele/pdf/english/Internet-Free-of-Censorship/05-Personal\\_data\\_protection\\_Latin\\_America\\_Villegas\\_Carrasquilla.pdf](http://www.palermo.edu/cele/pdf/english/Internet-Free-of-Censorship/05-Personal_data_protection_Latin_America_Villegas_Carrasquilla.pdf).

<sup>83</sup> Reform Law 26551, See: CELE <http://www.lanacion.com.ar/1512551-calumnias-e-injurias-dos-delitos-de-incomoda-vigencia>.

<sup>84</sup> Law 26.388 [in Spanish] (2008), Documentation and Information Center, accessed March 20, 2012, <http://www.infoleg.gov.ar/infolegInternet/anexos/140000-144999/141790/norma.htm>.

<sup>85</sup> Lillie Langtry, “Argentina: Concerns Over New Terrorism Law,” *Memory in Latin America*, December 30, 2011, <http://memoryinlatinamerica.blogspot.com/2011/12/argentina-concerns-over-new-terrorism.html>; “Argentina: Fears Over Terror Law,” *New York Times*, December 28, 2011, <http://nyti.ms/16QpCiQ>.

Although violence against online journalists occurs sporadically, it is not nearly as frequent as violence against those working for traditional media outlets. Local press freedom watchdogs recorded approximately 70 cases of physical and verbal attacks against journalists during the first half of 2012. Most attacks were attributed to non-state actors in inland regions against those working for traditional media outlets.<sup>86</sup> However, in some cases, the targeted journalists also maintained websites or contributed to online news outlets. Another report by The Argentine Journalists Forum, known as FOPEA, recorded 172 attacks on reporters during 2012; 11 percent of attacks were against people working for digital media outlets.<sup>87</sup>

In one incident from April 2012, Jorge Peña, a city council president in Candelaria, punched TV journalist and news website editor Daniel Luna, who was arguing against being denied access to cover a city council session; the council president was subsequently charged for injuring the reporter.<sup>88</sup> Shortly after, in May 2012, the city council rejected Peña's request for restitution. In the same session, Rodrigo Castillo, another online news journalist, was attacked while trying to obtain photographs of a city council member. When alerted about this event, the police disregarded the accusation and made no effort to detain the aggressors.<sup>89</sup>

During 2012, some journalists were also subject to defamatory campaigns and privacy breaches extending to the unauthorized disclosure of their personal information on public websites. Gustavo Sylvestre, a political analyst, journalist, and blogger was targeted with such a smear campaign. His business, family, and tax information, as well as the phone numbers and addresses of his personal contacts, were published online. Days later, a derogatory article was published about him.<sup>90</sup> Sylvestre's work, which is highly political in nature, seems likely to have been the motive behind the virtual attack. Although concerning, as of May 2013, such incidents did not appear to be widespread or on the rise.

There are no restrictions on anonymity for internet users, nor are there restrictions on the use of encryption. Users are able to freely post anonymous comments in a variety of online forums, and neither bloggers nor website owners are required to register with the government. When purchasing a mobile phone or prepaid SIM card, however, users must provide identifying

<sup>86</sup> Committee to Protect Journalists, "Argentina," in *Attacks on the Press 2011*, (New York: February 2012), <http://cpj.org/2012/02/attacks-on-the-press-in-2011-argentina.php>.

<sup>87</sup> FOPEA, "Freedom of Expression Monitor in Argentina," 2012 Report (2013), <http://monitoreolde.com.ar/InformeMonitoreo2012FOPEA.pdf>.

<sup>88</sup> Liliana Honorato, "Argentine City Council President Punches Journalist in the Face," *Journalism in the Americas*, April 19, 2012, <http://knightcenter.utexas.edu/blog/00-9784-argentine-city-council-president-punches-journalist-face>.

<sup>89</sup> FOPEA, "Nueva Agresion a Periodista en Candelaria" [New Aggression to Journalist in Candelaria], May 9, 2012, [http://www.fopea.org/Inicio/Nueva\\_agresion\\_a\\_periodista\\_en\\_Candelaria](http://www.fopea.org/Inicio/Nueva_agresion_a_periodista_en_Candelaria).

<sup>90</sup> FOPEA, "Solidaridad de FOPEA con el Periodista Gustavo Sylvestre por el Artículo que Revela Datos de su Vida Privada y Familiar" [FOPEA in Solidarity with Gustavo Sylvestre], August 31, 2012, <http://bit.ly/1bXeFE5>.

information.<sup>91</sup> In December 2011, the Argentine Network Information Center (NIC.ar) was placed directly under the oversight of the Executive branch of the government.<sup>92</sup>

In late 2012, incidents of domain name denials emerged in cases where the names related in some way to President Cristina Fernandez de Kirchner or to the progovernment youth group La Campora. In such cases, applications were either denied by NIC.ar or applicants were asked to modify their proposed domain names. The sole mention of the President's first or last name was reportedly reason enough for an application to be called into question.<sup>93</sup> Accordingly, domains such as *cristinacorazon.com.ar*, *enlacampora.com.ar*, and *kirchnerismopasion.com.ar* were rejected immediately. Upon asking for clarification, Argentine newspaper *Perfil* was told that such domains were forbidden due to their potential to "affect the morale of the person" in question.<sup>94</sup> Such broad restrictions impact sites critical of the administration as well as those which support the government, complicating efforts to develop online platforms dedicated to discussions of national leadership.

In Argentina, a court order is officially required to intercept private communications, even in cases related to national security.<sup>95</sup> It is believed that these procedures are generally followed in practice, although the government does not publish figures on how many interceptions are implemented annually. According to Google's Transparency Report, between July and December 2012 the Argentine authorities made 114 requests for user data covering 175 accounts; Google complied with the release of some data in 38 percent of cases.<sup>96</sup> Microsoft's 2012 Law Enforcement Request Report states a total number of 769 requests for user data covering 1,279 accounts. Microsoft complied with 85.7 percent of requests and found no system data for the remaining 14.3 percent. All requests were determined to satisfy relevant legal requirements.<sup>97</sup>

Over the past decade, there have been several scandals involving officials on both sides of the political spectrum engaging in illegal surveillance of opponents' telephone communications. In one high-profile scandal, evidence surfaced of navy personnel monitoring former President Nestor

<sup>91</sup> Law 19.798, Resolution 490/97 [in Spanish] (1997), "[http://www.cnc.gob.ar/normativa/sc0490\\_97.pdf](http://www.cnc.gob.ar/normativa/sc0490_97.pdf); Secretaria de Comunicaciones, "Apruebase de Relamento General de Clientes de Iso Servicios de Comunicaciones Moviles" [Text of the General Terms for Users of Mobile Communication Services], National Communications Commission, accessed March 20, 2012, [http://www.cnc.gob.ar/normativa/sc0490\\_97.pdf](http://www.cnc.gob.ar/normativa/sc0490_97.pdf).

<sup>92</sup> Network information centers are responsible for the allocation of domain names and registry administration in different countries.

<sup>93</sup> Eduardo Bertoni and Atilio Grimani, "Nombres de Dominio: Una Expresion que merece ser Protegida" [Domain Names: An Expression Worth Protecting], CELE – iLEI, November, 2012, <http://bit.ly/1dSs1zC>.

<sup>94</sup> "El Gobierno Rechaza y se Apropia de Dominios de Internet con Nombres K" [Government Denies and Owns Internet Domains with K Names on Them], *Perfil*, September 9, 2012, [http://www.perfil.com/contenidos/2012/09/05/noticia\\_0024.html](http://www.perfil.com/contenidos/2012/09/05/noticia_0024.html).

<sup>95</sup> Law 19.798, Articles 45 bis, 45 ter and 45 quáter [in Spanish] (1972), "Law of National Telecommunications," Documentation and Information Center, accessed March 20, 2012, <http://infoleg.mecon.gov.ar/infolegInternet/anexos/30000-34999/31922/texact.htm>; Law 25.520 [in Spanish] (2001), "Law of National Intelligence," Documentation and Information Center, <http://infoleg.mecon.gov.ar/infolegInternet/anexos/70000-74999/70496/norma.htm>.

<sup>96</sup> "Google Transparency Report, Argentina."

<sup>97</sup> Microsoft, *Microsoft Law Enforcement Requests Report 2012*, [http://download.microsoft.com/download/F/3/8/F38AF681-EB3A-4645-A9C4-D4F31B8BA8F2/MSFT\\_Reporting\\_Data.pdf](http://download.microsoft.com/download/F/3/8/F38AF681-EB3A-4645-A9C4-D4F31B8BA8F2/MSFT_Reporting_Data.pdf).

Kirchner for decades.<sup>98</sup> In another incident, the mayor of Buenos Aires, an opposition politician, and the city's police chief are alleged to have illegally wiretapped civic leaders, politicians, and trade union activists.<sup>99</sup> Most such incidents occurred in 2007 or earlier and there is no clear evidence that such violations of privacy continue. Meanwhile, related prosecutions continue to make their way through the courts.

Cybercrime is perceived as a growing problem in Argentina and new cybercrime legislation has emerged in response to recent news indicating that technical attacks might be more common than typical statistics indicate.<sup>100</sup> In November 2012 the General Prosecutor of Ciudad Autónoma de Buenos Aires activated a one-year pilot project in which he assigned a team of prosecutors to the task of investigating crimes aimed at hacking informational systems and programs, as well as the spreading of pornographic content.<sup>101</sup> Such measures and protocols do not yet appear to exist on the national level.<sup>102</sup> Should such incidents occur, those responsible would be liable for prosecution under the criminal code, as amended by the aforementioned Law 26388.

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<sup>98</sup> "Fernandez Shakes Up Argentine Military," UPI, January 6, 2012,

[http://www.upi.com/Top\\_News/Special/2012/01/06/Fernandez-shakes-up-Argentine-military/UPI-92341325853530/](http://www.upi.com/Top_News/Special/2012/01/06/Fernandez-shakes-up-Argentine-military/UPI-92341325853530/)

<sup>99</sup> Nic Pollock, "Wiretapping Case Continues as Judge Oyarbide Closes Investigation Stage," *Argentina Independent*, May 16, 2012, <http://www.argentinaindependent.com/currentaffairs/wiretapping-case-continues-as-judge-oyarbide-closes-investigation-stage/>; Maria Magro, "Two Clarin Journalists Testify in Buenos Aires Wiretapping Scandal," *Journalism in the Americas* (blog), November 18, 2010, <http://knightcenter.utexas.edu/blog/two-clarin-journalists-testify-buenos-aires-wiretapping-scandal>.

<sup>100</sup> Virginia Messi, "Robos y Estafas: Crecen los Delitos en la Web y las Leyes no se Actualizan" [Thefts and Cons: Crimes on the Web Go Up and There is No Law Actualization], *Clarín*, February 3, 2012, [http://www.clarin.com/policiales/Crecen-delitos-Web-leyes-actualizan\\_0\\_859114221.html](http://www.clarin.com/policiales/Crecen-delitos-Web-leyes-actualizan_0_859114221.html).

<sup>101</sup> Project authorized by Resolution 501/12 of the General Prosecutor's Office, <http://www.mpf.jusbaires.gov.ar/wp-content/uploads/resolucion-fg-nc2ba-501-12-equipo-fiscal-a-uf-este-delitos-y-contravenciones-informaticas-sin-act-int.pdf>.

<sup>102</sup> "Una Fiscalía Dedicada a los Delitos Informáticos" [A Prosecutor's Office Dedicated to Cyber-Crime], *Clarín*, February 3, 2012, [http://www.clarin.com/policiales/fiscalia-dedicada-delitos-informaticos\\_0\\_859114224.html](http://www.clarin.com/policiales/fiscalia-dedicada-delitos-informaticos_0_859114224.html).