

ARGENTINA

	2011	2012
INTERNET FREEDOM STATUS	n/a	Free
Obstacles to Access (0-25)	n/a	9
Limits on Content (0-35)	n/a	9
Violations of User Rights (0-40)	n/a	8
Total (0-100)	n/a	26

* 0=most free, 100=least free

POPULATION: 41 million
INTERNET PENETRATION 2011: 48 percent
WEB 2.0 APPLICATIONS BLOCKED: Yes
NOTABLE POLITICAL CENSORSHIP: No
BLOGGERS/ICT USERS ARRESTED: No
PRESS FREEDOM STATUS: Partly Free

INTRODUCTION

The internet first began being used for commercial purposes in Argentina in 1991, though it had been a focus of academic study from the 1980s.¹ Internet penetration has since steadily increased and Argentina is now home to one of the largest contingents of internet users in South America. Since 2009, access has grown especially quickly, partly the result of successful government policies to improve services and expand broadband connections throughout the country.

The country's legal framework and independent courts generally protect online freedom of expression, both in law and in practice, and Argentines have free access to a wide array of information sources over the internet. Nevertheless, several court decisions in 2010 and 2011 restricted access to websites on claims of defamation or intellectual property rights violations, and one led to the accidental blocking of an entire blog-hosting platform. More seriously, a series of injunctions imposed intermediary liability on search engines to delete links from the results they present users. The rulings drew criticism from freedom of expression advocates and international firms like Google, and some were subsequently overturned by higher courts.

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

OBSTACLES TO ACCESS

Internet penetration has consistently increased over the past decade, from about 21 percent of the population in 2006 to nearly 48 percent in 2011, according to the International Telecommunications Union (ITU), an increase of over 10 percent from the previous year.² Some sources suggest that by the end of 2011, overall internet penetration had risen even higher, to 75 percent of the population.³ This dramatic expansion in usage has been facilitated by increased government investment in telecommunications infrastructure and equipment over the past two years. As a result, a growing number of people are connecting to the internet from their homes and via mobile devices. By December 2011, the number of internet subscriptions reached 8.2 million for residential connections and another 1.2 million at organizations or businesses, according to government figures, an increase of over 50 percent in each sector compared to 2010.⁴ Mobile web connectivity increased by around 160 percent over the same period.⁵ The proportion of broadband connections compared to dial-up has also increased, and by early 2012, broadband accounted for 99 percent of the internet market⁶ at an average speed of 3 Mbps.⁷ Mobile phone penetration is significantly higher than internet usage, with 58 million lines active as of late 2011 (a penetration rate of about 142 percent).⁸

Although access is growing across the country, according to the National Statistics Institute (Instituto Nacional de Estadísticas y Censos, INDEC), there remains a stark gap between large urban areas like Buenos Aires, Cordoba, and Santa Fe versus other provinces; the former account for over 75 percent of home internet connections.⁹ Besides socioeconomic disparities and price differences, the lack of access to National Access Points in geographically remote areas, such as Patagonia or the northwest, contributes to this urban-rural divide.¹⁰ In general, expense has not been a primary obstacle to access for most people. The average

² International Telecommunication Union (ITU), "Percentage of individuals using the Internet, fixed (wired) Internet subscriptions, fixed (wired)-broadband subscriptions," 2006 & 2011, accessed July 13, 2012, <http://www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx#>.

³ "75% of the population has internet access in Argentina" [in Spanish], Prince & Cooke, January 3, 2012, http://economia.terra.com.ar/noticias/noticia.aspx?idNoticia=201201031637_TEL_4213101.

⁴ National Institute of Statistics and Censuses (INDEC), "Press Reports on Access to Internet, Fourth Quarter of 2011" [in Spanish], Ministry of Economics and Public Finances, Institute of Statistics and Censuses, accessed April 6, 2012, http://www.indec.gob.ar/nuevaweb/cuadros/14/internet_03_12.pdf.

⁵ Ibid.

⁶ Ibid.

⁷ "Argentina out of the podium of Internet Speed in Latin America" [in Spanish], Yahoo News Online, May 30, 2012, <http://ar.noticias.yahoo.com/argentina-podio-velocidad-internet-am%C3%A9rica-latina-181000405.html>.

⁸ National Institute of Statistics and Censuses (INDEC), "Historic Series of Communications: Active Cellphones" [in Spanish], National Communications Commission, accessed June 5, 2012, http://www.indec.gob.ar/nuevaweb/cuadros/14/sh_comunicac2.xls.

⁹ INDEC, "Press Reports on Access to Internet, Fourth Quarter of 2011."

¹⁰ Interview with employee of the Library of the National Communications Commission (Comisión Nacional de Comunicaciones), February 18, 2012.

broadband plan cost 100 pesos (US\$22) per month and the average monthly wage is 2,300 pesos (US\$500).

In recent years, the Argentine government has accelerated its efforts to promote internet access and as noted above, these appeared to bear fruit in 2011. Policies that contributed to these successes included the Digital Agenda, the Argentina Connected Plan, the Equal Connection Plan, and the Universal Service Trust Fund. The Digital Agenda, approved in 2009, established a national plan for strategically using information and communication technologies (ICTs) to connect government institutions and citizens to create a knowledge society. The Argentina Connected Plan was approved in 2010 as a five-year strategic initiative to expand infrastructure and telecommunications services to the entire country. It seeks to reduce the cost of broadband connections and make them available on equal terms for all inhabitants. The Equal Connection Plan, also approved in 2010, led to the provision of internet connections at all public secondary schools and laptop computers for students throughout the country. Lastly, although universal service obligations have been in place since 2001, initiatives to seriously enforce these commitments only began in November 2010. That month, the government established the Universal Service Trust Fund, which receives one per cent of the profits from telecommunications companies and uses it to reinvest in expanding broadband access to narrow the gap across provinces.¹¹

When the telecommunications industry was privatized in the 1980s, the former state-owned operator was split into two companies: Telecom Argentina to cover the north of the country and Telefonica de Argentina to cover the south. As of the end of 2010, these two incumbents owned around 90 percent of the fixed-line infrastructure in the country and both provided internet services.¹² Meanwhile, some 300 other companies have been granted licenses to operate as internet service providers (ISPs).¹³ Many of these are regional providers, serving as provincial subsidiaries of the above two companies or other large firms like Fibertel of Grupo Clarín that also has a notable share of the broadband market.¹⁴ The mobile phone market is dominated by three providers: Telefonica's Movistar, Telecom's Personal, and Claro, owned by Mexican billionaire Carlos Slim. Each of the three covers about one third of the market

¹¹ "The Digital Agenda" [in Spanish], Cabinet of Ministers of the President, accessed March 20, 2012, <http://www.agendadigital.ar/>; "The National Telecommunications Argentina Connected Plan" [in Spanish], Ministry of Federal Planning, Public Investment and Services, accessed March 20, 2012, <http://www.argentinaconectada.gob.ar/>; "The Equal Connection Plan" [in Spanish], Cabinet of Ministers of the President, accessed March 20, 2012, <http://www.conectarigualdad.gob.ar/>; "Universal service obligations and the Universal Service Trust Fund" [in Spanish], National Communications Commission, accessed March 20, 2012, <http://www.cnc.gov.ar/infotecnica/facturacion/servuniversal.asp>.

¹² "Argentina Broadband Overview," Point-Topic, July 12, 2011, <http://point-topic.com/content/operatorSource/profiles2/argentina-broadband-overview.htm>.

¹³ "Business Information" [in Spanish], National Communications Commission, accessed March 20, 2012, <http://www.cnc.gov.ar/ciudadanos/internet/empresas.asp?offset=0>.

¹⁴ "Argentina Broadband Overview," Point-Topic.

and all offer 3G services.¹⁵ To date, the state has not interfered with international internet connectivity. However, as part of the Argentina Connected Plan, the government is working to construct an internal state-sponsored fiber-optic cable backbone that would be managed by a government-owned firm.¹⁶ The project is scheduled for completion in 2015 and is currently in the procurement phase.

Private companies wishing to operate as ISPs must first obtain a license from the National Communications Commission (Comisión Nacional de Comunicaciones, CNC).¹⁷ The CNC functions under the Secretariat of Communications (Secretaría de Comunicaciones) as a decentralized entity. Both operate under the authority of the Ministry of Federal Planning, Public Investment and Services.¹⁸ 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 (US\$1,100) at the time of submission.¹⁹ The licensing process for mobile phone providers is similar. Once the license is approved, there are no additional fees, but new providers are required to pay special taxes, like the Universal Service Trust Fund mentioned above. Cybercafe licenses are processed like those of any other small business, without additional conditions or approvals required.

Although the statutory composition of the CNC offers some degree of independence, it has been taken over by the executive since 2002 per Presidential decree 521 in order to increase its efficiency.²⁰ The decree provides for an ad hoc administrator (*interventor*) appointed by the president, who will fulfill the functions of the CNC President and Board of Directors, as well as appoint other commission members at his or her discretion. This arrangement has detracted from the independence of the institution. In practice, there have been few complaints about corruption or unfairness in the CNC's operations. Since 2010, however, controversy and accusations of political bias have emerged surrounding Fibertel's ISP license, indicating some public mistrust of the regulator.²¹ The relevant judicial case was pending before a federal court as of May 2012.

¹⁵ Ibid.

¹⁶ The government-owned corporation AR-SAT would manage the network. AR-SAT began operating in July 2006 and 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>.

¹⁷ "Decree 764/2000 Annex 1" [in Spanish], National Communications Commission, accessed March 20, 2012, http://www.cnc.gov.ar/normativa/Dec764_00-AnexoI.pdf.

¹⁸ "Organization Chart" [in Spanish], Ministry of Federal Planning, Public Investment and Services, accessed June 6, 2012, <http://institucional.minplan.gov.ar/html/organigrama/>.

¹⁹ "Guide for license applications," National Communications Commission, 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).

²⁰ National Communications Commission (Comisión Nacional de Comunicaciones), *Presidential Decree N° 521 / 2002* [in Spanish], March 20, 2002, http://www.cnc.gov.ar/institucional/biblioteca/buscador/Normativa/pdf/Decreto-521_02.pdf.

²¹ "Argentina's media Pressed," *The Economist*, August 25, 2010, http://www.economist.com/blogs/americasview/2010/08/argentinas_media; "Federal judge freezes order to cancel Fibertel's

LIMITS ON CONTENT

Argentinean internet users have access to a wide array of online content, including international and local news outlets, political parties' websites, and civil society initiatives. The government does not impose any automated filtering or restrictions on politically oriented information. However, some websites related to child pornography are blocked. In recent years, controversy has emerged over the blocking of allegedly defamatory or copyright protected content, as well as injunctions that invoke intermediary liability.

Web 2.0 tools such as the social networking site Facebook, the video-sharing platform YouTube, or the microblogging service Twitter are freely available. Nevertheless, in one notable exception, Google's blog-hosting platform Blogger was blocked for approximately one week in August 2011. Following a court decision, the CNC ordered local ISPs to restrict access to two URLs: www.leakymails.com and Leakymails.blogspot.com.²² The websites, local spinoffs of the anti-secrecy site Wikileaks, had published the email correspondence of government officials, politicians, journalists and other public figures. Much of the content appeared to be personal and irrelevant to public policy, rather than exposing malfeasance or corruption, prompting the complaints that led to the court order.²³ ISPs complied and blocked access to the IP addresses of the two pages, but this also restricted access to the Blogspot.com domain, effectively blocking the entire Blogger platform, including over one million other blogs not listed in the judicial order. After criticism from the public and Google,²⁴ the sweeping block was lifted a week later, though the specific Leakymails blog remained inaccessible, as ISPs shifted to a more precise filtering technique.

Another case drawing public attention involves judicial action taken against Cuevana, a website dedicated to cataloguing and linking to sites that enable the free streaming of movie and television programs. Launched in 2009, Cuevana 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 have filed lawsuits against the site (including HBO, Turner Argentina, Twentieth Century Fox, and Disney Enterprises) alleging infringement of

license, govt to appeal," Business News Americas, September 27, 2010, http://www.bnamerica.com/news/telecommunications/Federal_judge_freezes_order_to_cancel_Fibertel*s_license_govt_to_appeal.

²² "A todos los Licenciatarios de Telecomunicaciones que brindan Servicios de Acceso a Internet" [All Telecom licensees providing Internet Access services] National Communications Commission, accessed March 20, 2012, http://www.cnc.gov.ar/noticia_detalle.asp?idnoticia=106.

²³ "Justice blocked the argentine 'Wikileaks'," [in Spanish] TN Cable Online, August 11, 2011, <http://tn.com.ar/politica/00062732/juez-pidio-bloquear-al-%E2%80%9Cwikileaks%E2%80%9D-argentino>; "A todos los Licenciatarios de Telecomunicaciones que brindan Servicios de Acceso a Internet" [All Telecom licenses providing Internet Access services], National Communications Commission, accessed March 20, 2012, http://www.cnc.gov.ar/noticia_detalle.asp?idnoticia=106.

²⁴ "Google reports blockage of blogs in Argentina" [in Spanish], TN Cable Online, August 19, 2012, <http://tn.com.ar/tecnologia/00064541/google-denuncia-un-bloqueo-masivo-de-sus-blogs-en-la-argentina>.

intellectual property rights.²⁵ As a result, in November 2011, the National Court of First Instance ordered the blocking of certain programs from Cueva's website, though ISPs only partially implemented the directive.²⁶ In March 2012, the prosecutor opened a criminal case against the site's administrator for allegedly profiting from copyrighted materials via donations to the site; the administrator denied the charges, claiming that any profits have been reinvested and that most of those involved are volunteers.²⁷ If found guilty, he could face between one month and six years in prison.

Regarding intermediary liability, several private individuals have sued search engines like Google and Yahoo, requesting that some results be removed from searches for their names. Most such complaints specifically ask for removal of links to content on third-party websites that the individual finds objectionable or damaging to his or her reputation.²⁸ Between 2006 and 2010, over 130 such cases were reportedly filed, often by prominent entertainers. In several instances, intermediaries have had to pay monetary compensation to the plaintiffs.²⁹ In one high profile case, a judge ruled in July 2009 that Google and Yahoo should remove all results linking to sites containing sexual images related to pop star Virginia Da Cunha. Google responded that it could not comply with such a sweeping injunction, while Yahoo held that the only way to comply would be to block all search results for her name. The firm temporarily took this unusual action for both her and other plaintiffs such as swimsuit model Yesica Toscanini.³⁰ In August 2010, the decision was overturned on appeal. The court ruled that the search engines could be held liable only if they were informed of defamatory content and negligently failed to remove it; they were not required to systematically identify and preemptively remove such material on their own. In two other cases that did not

²⁵ "Cuevana gets in more problems" [in Spanish], Clarin, March 7, 2012, http://www.clarin.com/internet/mundo_web/titulo_0_659334165.html; "Cuevana: Open criminal case against the owners of the site in Argentina" [in Spanish], La Tercera online, March 16, 2012, <http://www.latercera.com/noticia/tendencias/2012/03/659-438170-9-cuevana-abren-causa-penal-contra-los-duenos-del-sitio-en-argentina.shtml>.

²⁶ Juan Pablo De Santis, "Justice blocks access to TV shows in Cuevana" [in Spanish], La Nacion online, November 30, 2011, <http://www.lanacion.com.ar/1428736-la-justicia-pidio-bloquear-el-acceso-a-series-en-cuevana>.

²⁷ Gonzalo Larrea, "Argentina Opens Criminal Case Against Cuevana," Ttvmedianews.com, 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" [Initiate criminal proceedings against Cuevana], La Nacion online, March 16, 2012, <http://www.lanacion.com.ar/1456828-inician-causa-penal-contra-cuevana>; "Cuevana the End?" Rapid TV News, <http://www.rapidtvnews.com/index.php/2011113017494/cuevana-the-end.html#ixzz1vUlbANxZl> (site discontinued).

²⁸ Eduardo Bertoni and Elizabeth Compa, "Emerging Patterns in Internet Freedom of Expression: Comparative Research Findings in Argentina and Abroad," Centro de Estudios en Libertad de Expresion y Acceso a la Informacion (Presented at the Latin American Regional Meeting on Freedom of Expression and the Internet), 2010: 25-38, <http://www.palermo.edu/cele/libertad-de-expresion-en-Internet.pdf>. Such cases include, inter alia, Da Cunha Virginia c/ Yahoo de Argentina SRL y otro s/ Daños y perjuicios; Zámolo, Sofía K. c/ Yahoo de Argentina SRL y otro; Sosa, María Agustina c/ Yahoo de Argentina SRL y otros s/ Medidas precautorias; etc.

²⁹ Google was ordered to pay 10,000 Argentine pesos (US\$ 2,300) plus court costs for facilitating the damage suffered by the claimant. BLUVOL, Esteban Carlos c/ GOOGLE INC: y otros s/ Daños y Perjuicios.

³⁰ The following message appeared to users seeking to search for information about these individuals: "Due to a court order requested by private parties, we have been forced to temporarily suppress all or some of the results related to this search."

involve sexual content, one filed by Judge María Romilda Servini de Cubría and the other by soccer player Diego Maradona, the courts ruled in the search engine's favor on the grounds that government officials, and in some cases prominent figures, can be subject to a higher level of public scrutiny than ordinary citizens. As of May 2012, the Cunha case was pending before the Supreme Court.

In a slightly different case, a judge granted an injunction in May 2011 ordering Google to remove 76 websites deemed anti-Semitic and "highly discriminatory" from its search results.³¹ The court also ruled that a set of 13 terms whose results led to those websites should be removed from the "suggested search" function on Google, a feature that offers optional terms similar to the one the user enters into the query field. Freedom of expression advocates criticized the decision, arguing that if applied more broadly, it could lead to significant intermediary liability and censorship. Instead, they recommended a similar approach to the United States, where an ad linking to information from the Anti-Defamation League was posted alongside anti-Semitic search results to educate users.

Despite the controversy surrounding the above decisions, it is notable that all blocks and removals have been based on court rulings. The websites and intermediaries involved have had access to an independent judicial process to challenge the decisions and have sometimes succeeded in overturning earlier rulings on appeal. According to Google's Transparency Report, from January to June 2011, the Argentine government submitted 21 content removal requests, covering 56 items, and the firm complied at least partially with all of them.³² Except for one request, all were made based on a court order. Google's breakdown of the requests indicates that nearly all related to claims of defamation or violations of privacy and none concerned government criticism.

Self-censorship among bloggers or online users is not widespread, and Argentinians express a wide diversity of views online. Nevertheless, in the interior parts of the country, where the rule of law is weaker than in the capital, some online journalists and bloggers use care when writing about powerful local officials or mining companies. In Argentina's polarized political environment, others may adjust their reporting based on the partisan affiliation of their publication.

The Argentine federal and local governments are known to allocate official advertising in a discriminatory manner, excluding news outlets whose reporting has been critical of the

³¹ "Argentine court blocks Google 'suggested' searches," CNN online, May 19, 2011, <http://edition.cnn.com/2011/TECH/web/05/18/argentina.google/>.

³² "Google Transparency Report, Argentina," last updated for July to December 2011, accessed on March 20, 2012, <http://www.google.com/transparencyreport/governmentrequests/AR/>.

government and rewarding supportive ones.³³ This phenomenon has had a negative impact on freedom of expression, particularly in the print and broadcast media sectors, and could affect online communications.³⁴ To date, however, there have been no documented cases of similar pressures being applied to online news outlets. In a positive development, in March 2011, the Supreme Court ruled unanimously that the government should apply a reasonable degree of balance in the distribution of state advertising.³⁵

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 dynamism of the pro-government blogosphere has increased since 2009, though other political parties have also started to gain ground.³⁶ A wide range of topics and views are shared online, including potentially sensitive ones like dissection of President Cristina Kirchner's speech to Congress following her reelection in October 2011 or scrutiny of her health when she underwent surgery in January 2012.³⁷ Nevertheless, journalists have complained about a lack of access to government representatives and a dearth of official press conferences. In 2009, an online portal called "Better Democracy" (*Mejor Democracia*) that provided the public with government-related information was closed. When it later reopened, it offered notably less information than previously, reducing transparency.³⁸ Most civic groups have a website, although user engagement in sociopolitical movements is low. Mobile phones are increasingly being used for activism, and such devices will likely play a decisive role in the future.³⁹ In addition, the popularity of social media tools has grown. By April 2012, the country had over 18 million Facebook registered users, almost 45 percent of the population. As of April 2011, there were about 850,000 Twitter users in Argentina.⁴⁰

³³ "The Dimension of Official Publicity in Argentina" [in Spanish], 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

³⁴ "The Dimension of Official Publicity in Argentina" [in Spanish], Poder Ciudadano.

³⁵ 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/; "Supreme Court tells Argentina to avoid bias in allocating ads," Committee to Protect Journalists, March 4, 2011, <http://cpj.org/2011/03/supreme-court-urges-argentina-to-avoid-bias-in-all.php>.

³⁶ Jorge Gobbi, "Argentina: Presidential Elections, a Review of Blogs," Global Voices (blog), October 26, 2011, <http://globalvoicesonline.org/2011/10/26/argentina-presidential-elections-a-review-of-blogs/>.

³⁷ Natan Calzolari, "Argentina: President Cristina Fernandez' Controversial Cancer Diagnosis," Global Voices (blog), January 16, 2012, <http://globalvoicesonline.org/2012/01/16/argentina-president-cristina-fernandez-controversial-cancer-diagnosis/>; Natan Calzolari, "Argentina: President Fernandez's Speech Under Netizens' Scrutiny," Global Voices (blog), March 6, 2012, <http://globalvoicesonline.org/2012/03/06/argentina-president-fernandezs-speech-under-netizens-scrutiny/>.

³⁸ "Califican de "retroceso" el bloqueo de la Web oficial" [in Spanish], Asociación por los Derechos Civiles (ADC), October 8, 2009, http://www.adc.org.ar/sw_contenido.php?id=643.

³⁹ Lourdes Cajrdenas, "NGOs mobilize citizenship by cellphone" [in Spanish], CNN Expansion, January 15, 2010, <http://www.cnnexpansion.com/expansion/2009/12/11/Mensajes-sin-excusas>.

⁴⁰ "Datos Twitter Latinoamérica 2011 (infografía)" [Latin American Twitter Data 2011 (infographic)], Ecualinkblog.com, <http://www.ecualinkblog.com/2011/04/datos-twitter-latinoamerica-2011.html>.

VIOLATIONS OF USER RIGHTS

The Argentine Constitution and human rights treaties incorporated into the Constitution in 1994 guarantee freedom of expression.⁴¹ Other laws also ensure that citizens can express their views without fear of censorship or reprisal. In 2005, Law No. 26032 was adopted explicitly extending constitutional protections to “the search, reception and dissemination of ideas and information of all kinds via internet services.”⁴²

The judiciary is generally independent, particularly at its higher echelons, such as the Supreme Court of Justice (SCJ). The SCJ has issued several rulings supportive of freedom of expression in recent years. These include the above-mentioned 2011 decision on discriminatory allocation of government advertising and a 2009 ruling that led to the suspension of requirements for service providers to retain user data for ten years.⁴³ 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.

No specific laws criminalize online expression on political or social issues. Law No. 26388, known as the Law on Cybercrime, was adopted in 2008. It amended the Argentine Criminal Code to cover offenses such as hacking, dissemination of child pornography, and other online crimes.⁴⁴ Some of the amendments have been criticized as overly vague and imprecise in their wording, using terms like “other similar communications,” which could open the door to abusive or unpredictable interpretations. In December 2011, the parliament passed an amendment to the country’s antiterrorism law. Lawyers and human rights groups

⁴¹ Particularly article 14. See Text of the Argentine Constitution in English, “Argentine Constitution,” Senate of the Argentine Nation, accessed March 20, 2012, <http://www.senado.gov.ar/web/interes/constitucion/english.php>. The Argentine Constitution was amended in 1994, and article 75 (22) now accords the following international human rights treaties with constitutional status and precedence over national laws: the American Declaration of the Rights and Duties of Man; the Universal Declaration of Human Rights; the American Convention on Human Rights; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights and its Optional Protocol; the Convention on the Prevention and Punishment of the Crime of Genocide; the International Convention on the Elimination of all Forms of Racial Discrimination; the Convention on the Elimination of all Forms of Discrimination against Woman; the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child.

⁴² Law No. 26032 [in Spanish] (2005), Documentation and Information Center, accessed March 20, 2012, <http://www.infoleg.gov.ar/infolegInternet/anexos/105000-109999/107145/norma.htm>.

⁴³ 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; Judgment of Halabi v. P.E.N. Argentine Supreme Court, June 26, 2007.

⁴⁴ Law No. 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>.

expressed concerns that the definition of terrorism provided was overly broad and could therefore be employed to punish legitimate political dissent, social protests, or economic analysis.⁴⁵ So far, neither of these laws has been used in practice to punish online expression.

As of April 2012, no bloggers, online journalists, or ordinary users were imprisoned for the peaceful expression of their views online or via private communications. One website administrator was facing criminal charges and a possible jail term over allegations of profiting from copyrighted material (see “Limits on Content”). Local press freedom watchdogs recorded about 18 cases of physical and verbal attacks against journalists during the first half of 2011. Most attacks were by non-state actors, in inland regions, and against those working for traditional media outlets.⁴⁶ However, in some cases, the journalists targeted also maintained websites or contributed to online news outlets. For example, in July 2011, Carlos Walker, a website editor and reporter for the local FM Ciudad radio station in Mar del Plata, was beaten, shot in the leg, and robbed of his journalistic equipment within minutes of taking pictures of political posters; the circumstances raised suspicions that he was targeted for his reporting rather than as a random victim of robbery.⁴⁷ Impunity for such assaults appears to be less in Argentina compared to other countries in the region, partly due to the well-functioning court system in Buenos Aires, where most major media outlets are based. Violence against bloggers or online journalists by law enforcement agents or government officials is rare. However, in April 2012, a city council president in Candelaria punched a TV journalist and news website editor who was arguing against being denied access to cover a city council session;⁴⁸ the council president was subsequently charged for injuring the reporter.

There are no restrictions on anonymity for internet users, and neither bloggers nor website owners are required to register with the government. Users are able to freely post anonymous comments in a variety of online forums and there are no restrictions on the use of encryption. However, users must provide identifying information when purchasing a mobile phone line or prepaid SIM card.⁴⁹

⁴⁵ Lillie Langtry, “Argentina: Concerns over new terrorism law,” Memory in Latin America (blog), 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://www.nytimes.com/2011/12/29/world/americas/argentina-fears-over-terror-law.html?_r=1&partner=rss&emc=rss.

⁴⁶ “Argentina,” Committee to Protect Journalists, accessed July 31, 2012, <http://cpj.org/2012/02/attacks-on-the-press-in-2011-argentina.php>.

⁴⁷ IFEX, “FOPEA condemns attack on journalist in Mar del Plata,” news release, August 2, 2011, http://www.ifex.org/argentina/2011/08/02/walker_shot/.

⁴⁸ Liliana Honorato, “Argentine city council president punches journalist in the face,” Journalism in the Americas (blog), April 19, 2012, <http://knightcenter.utexas.edu/blog/00-9784-argentine-city-council-president-punches-journalist-face>.

⁴⁹ Law No. 19.798, Resolution No. 490/97 [in Spanish] (1997), “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.

A court order is required to intercept private communications,⁵⁰ including in cases related to national security.⁵¹ These procedures are generally followed in practice, although the government did not publish figures on how many such interceptions are implemented annually. According to Google's Transparency Report, between January and June 2011, the Argentine authorities made 134 requests for user data covering 188 accounts and Google complied with approximately one third of them.⁵² 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 Kirchner for decades.⁵³ 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.⁵⁴ 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.

Widespread technical violence is not a problem and there have been no reports of websites belonging to government opponents or civil society groups being the victims of denial-of-service (DoS) attacks. Should such incidents occur, those responsible would be liable for prosecution under the Criminal Code, as amended by Law No. 26388, mentioned above.

⁵⁰ Law No. 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>.

⁵¹ Law No. 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>.

⁵² "Google Transparency Report, Argentina."

⁵³ "Fernandez shakes up Argentine military," UPI.com, January 6, 2012, http://www.upi.com/Top_News/Special/2012/01/06/Fernandez-shakes-up-Argentine-military/UPI-92341325853530/.

⁵⁴ Nic Pollock, "Wiretapping Case Continues as Judge Oyarbide Closes Investigation Stage," The 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>.