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Commission on Narcotic Drugs (CND)

Ref.: CND 2024 Mid-term Review Stakeholders' Contributions

From the Center of Legal and Social Studies (CELS)¹, we are writing to present information on the human rights effects that take place in Argentina as a result of drug policies framed in the prohibitionist model.

We are making contributions based on the multiple challenges identified in the 2019 Ministerial Declaration. Our inputs are strategically aligned with the following key points:

1. Addressing organized crime, violence, and insecurity.
2. Reducing the overuse of prison and punishment.
3. Protecting the health of people who use drugs
4. Reforming drug policies that violate human rights.
5. Challenges to improve current data collection and analysis

- **1. Addressing organized crime, violence, and insecurity.**

In Argentina, the government's response to the drug problem is mainly focused on reinforcing policing in poor neighborhoods and on arresting and imprisoning individuals with minor roles in the drug trade². Furthermore, militarized security forces, such as the Gendarmerie and the Prefecture have been deployed for prevention tasks in peripheral areas across different cities of the country³. Successive governments have made declarations with the intention of including military forces in tasks related to counteracting drug trafficking. This approach has led to an increase of prison population, creating an environment where it is difficult to control the criminal and corrupt logics that take place there.

There is evidence suggesting that the spread of criminal gangs and the circulation of violence in Argentina, are linked to drug trade. This web involves the police, penitentiary, political and judicial bureaucracies⁴.

The city of Rosario, located in the province of Santa Fe, presents the most grave scenario. There, several gangs have developed and are now dedicated to the distribution of

¹ Organization working for the promotion and protection of human rights since 1979. This work is today developed through strategic litigation, research and public policy advocacy in Argentina and in international and regional human rights bodies.

² <https://www.cels.org.ar/informe2019/pdf/Guerra-contra-el-narcotrafico.pdf>

³ <https://cels.org.ar/common/cap%204%20para%20web.pdf>

⁴ Sain, M, "The regulation of drug trafficking in the province of Buenos Aires", Universidad Metropolitana para la Educación y el Trabajo, Colección "Gobierno y Seguridad" Documento de Trabajo N° 1, Ciudad Autónoma de Buenos Aires, 2015.; Sobering, K y Auyero, J, "Collusion and cynicism at the urban margins". Latin American Research Review, 2019. La construcción de una agenda regresiva en torno de la "cuestión narco" disponible en: <https://cels.org.ar/common/cap%204%20para%20web.pdf>

substances for both local consumption and international trafficking (mainly through the waterway that connects the Paraguay and Paraná rivers with the Atlantic Ocean).

An important variable to measuring the severity of the problem is the homicide rate. While Argentina's rate has been steadily decreasing since 2014, dropping from 7.6 per 100 thousand inhabitants to 4.31 in 2022, the province of Santa Fe has sustained a high rate for a decade, almost doubling the national average (13.2 per 100 thousand inhabitants in 2014 and 11.31 in 2022). The case of Rosario mirrors the trend of the province, but with even higher numbers. In 2022, the Rosario department registered a rate of 22 per 100 thousand, marking the highest rate in the last eight years, nearly quintupling the national rate.

In the judicial department of Rosario, where 287 people were murdered in 2022, official data⁵ indicates that 4.9% of homicides occurred during a robbery, while 72.1% were linked to activities of "organized crime or illegal markets". This source also includes another variable that indicates whether the homicide had "a previous mandate or pact", comprehending deaths executed by a person "other than the one directly involved in the homicide". This prior order or pact exists in 50.9% of the cases.

Another relevant fact of the City of Rosario is the increase of the percentage of homicides carried out with firearms, rising from seven out of ten homicides in 2014 to nine out of ten in 2022. According to national statistics, the number of firearms used in homicides in Rosario increased from seven out of ten in 2014 to nine out of ten in 2022. While at the national level, in 2022, firearms were used in 50% of the homicides in the country.

The weapon supplies that criminal gangs are able to obtain is partially explained by the deviation and misuse of state weapons. The Provincial Firearms Violence Prevention Agency documented⁶ a weak state-weapon control, noting that every four days a police officer in the province loses or has a weapon stolen. According to this analysis, the problems in state control are observed in the theft or loss of official weapons; the lack of control in the allocation of ammunition; an irrational system of safekeeping; the absence of control of legalized weapons; and the absence of updated records on the official stock of weapons.

In Rosario, criminal dynamics such as hired killings⁷ and extortive dynamics like shootings⁸ indicate criminal diversification. Different sources show that homicides are still highly

⁵ Source: Public Prosecutor's Office

<https://www.santafe.gob.ar/ms/osp/wp-content/uploads/sites/46/2023/01/2022-Homicidios-anual.pdf>.

⁶ Report N° 3 realizado Modernización policial en Santa Fe: weak and weak state oversight of firearms and ammunition Available at:

https://www.santafe.gov.ar/index.php/web/content/download/259880/1367558/file/Documento%20institucional%20N%C2%B03%20-%20Armas%20y%20municiones_04.pdf

⁷ See: <https://www.pagina12.com.ar/616849-rosario-asi-fue-el-ataque-de-sicarios-que-entraron-a-los-tir>

⁸ In March 2023, a criminal gang linked to the drug trade made a threat against soccer player Lionel Messi. The gang fired more than 14 shots in front of a supermarket owned by the family of the player's wife, and after the shots were fired, the gang left a note indicating that the player was in danger in that city.

https://www.clarin.com/policiales/amenaza-narco-lionel-messi-queda-supermercado-familia-antonella-roccuzzo-balacera_0_uE1OgDYU0Q.html

concentrated in the peripheral, impoverished areas of the city⁹. But there have also been episodes of extreme violence in the center of the city, violent attacks on public entities¹⁰ and threats to government officials¹¹ such as those received by the current governor of the province¹² after extreme security measures were taken in a penitentiary unit where leaders of criminal gangs are serving sentences.

It is important to note that in December 2022, the total number of prisoners of Santa Fe was 7722, signifying a 22% overcrowding in its penitentiary units. In this province, 38% of the prison population is incarcerated for committing robberies and 8% for drug offenses. Furthermore, several criminal actions are directed¹³ from penitentiary units located within the province.

Confronted with a serious scenario persisting for over a decade, the state response in this city mirrors interventions that have already shown shortcomings. The new government administrations that took office last December both locally and nationally, have made several announcements in this regard.

Among these, they announced the reinforcement of militarized federal security forces through the deployment of the Gendarmerie in "saturation" operations, as has been done since 2014.

In addition, the province approved the adherence to Law 26052, which defederalizes the drug law transferring to the provinces the prosecution of drug possession and sale to consumers¹⁴. It is important to mention that jurisdictions applying this law have considerably

⁹ A descriptive approach to the geographic distribution of homicide in Argentina Available at <https://celiv.untref.edu.ar/delitoencifras-jun2022.html>.

¹⁰ available at:

https://www.ellitoral.com/sucesos/rosario-crimenes-record-muertes-datos-victimas-mapas-graficos-estadisticas-anuario_0_IDhmZC86FI.htm

¹¹ In 2013, four men on two motorcycles fired 14 shots at the home of the then governor of Santa Fe, Antonio Bonfatti. At least three of the 9 and 11.5 millimeter bullets entered the living room of the house, where the governor was with his family (<https://www.pagina12.com.ar/diario/elpais/1-231166-2013-10-13.html>).

¹² Maximiliano Pullaro moved his family out of Rosario due to serious drug threats (<https://www.lanacion.com.ar/politica/el-gobernador-de-santa-fe-saco-su-familia-de-rosario-ante-las-graves-amenazas-narco-nid08012024/>)

In addition, the intention to involve the military forces in tasks related to the pursuit of drug trafficking has been announced. Although so far it has not materialized in a government decision, statements by officials indicate that such decision would be taken by means of a presidential decree, skipping the legislative debate that requires the modification of the demarcation of functions established by the laws of Internal Security and National Defense in Argentina.

In a context of growing economic crisis that increasingly offers the participation of people in the drug market as a way to acquire income in the absence of work to ensure a decent life, where firearms circulate easily, where there is ample evidence of police and prison officers who are part of criminal organizations, of political officials who protect criminal dynamics, where gang leaders plan actions from prisons and where controls to launder financial assets are very lax, policies are required to address the problem seriously in all its dimensions.

¹³see:

<https://www.lanacion.com.ar/politica/rosario-feudo-criminal-la-mano-negra-detras-de-la-guerra-narco-nid30102022/>

¹⁴ In Argentina, drug offenses, as defined in Law 23737, are under federal jurisdiction. Since 2005, the provinces have been able to adhere to Law 26,052 and assume responsibility for prosecuting and judging the crimes of simple possession, consumption and retail sale. In the provinces of Buenos

increased court cases and prison population for consumer marketing crimes, but did not manage to generate mechanisms to reduce the supply of drugs, nor to address the dynamics of violence in the territories. They also failed to make it possible for the federal justice system to carry out investigations of organized drug crime. This happened because, among other things, these policies were not accompanied by serious controls over police and penitentiary institutions, which are often involved in these criminal dynamics¹⁵.

The national government also announced their intention to involve the military forces in tasks related to pursuing drug trafficking. Although this has not materialized in a official decision, statements by officials indicate that such a decision will be made through a presidential decree¹⁶, bypassing the legislative debate that is constitutionally required for modifications to the demarcation of functions established by the laws of Internal Security and National Defense in Argentina.

In Argentina, there is a context of growing economic crisis that increasingly results in the participation of people in the drug market as means to acquire income in the absence of work to ensure a decent life. In this context, firearms circulate easily, and there is wide evidence of police and prison officers being a part of criminal organizations, political officials protecting criminal dynamics, and gang leaders planning actions from prisons. In addition, controls to launder financial assets are very lax¹⁷.

The gravity of the problem requires several actions that address all these aspects. In particular, urgent measures are needed to guarantee economic, social, cultural and health rights. At the same time, it is a priority to develop criminal policies aimed at diminishing the prevalence of violence. To this end, purely punitive interventions should not be repeated.

In Latin America, the repetition of strategies adopting military tactics by police agencies and the direct involvement of the armed forces in security tasks have resulted in serious human rights violations and heightened the level of violence, without achieving positive results in reducing drug production, trafficking and consumption¹⁸.

- **2. Reducing the overuse of prison and punishment.**

In Argentina, the judicial system primarily focuses on prosecuting small-scale commercialization of drugs and micro-trafficking offenses. Arrests and incarceration show no

Aires, Córdoba, Salta, Formosa, Chaco, Entre Ríos, Santiago del Estero and the Autonomous City of Buenos Aires this law is in force.

¹⁵ See La desfederalización de la ley de drogas a la luz de la experiencia en la provincia de Buenos Aires.

Aires. An alert for the City of Buenos Aires, at ;
<https://www.calameo.com/defensoriacaba/read/002682399a88af912bd6e?page=3>

¹⁶<https://www.infobae.com/politica/2024/01/10/petri-quiere-cambiar-el-decreto-kirchnerista-que-prohibe-a-las-fuerzas-armadas-colaborar-en-el-combate-al-terrorismo-y-el-narcotrafico/>

¹⁷See:

<https://www.lanacion.com.ar/seguridad/el-huevo-de-la-serpiente-narcos-y-complices-que-convirtieron-a-rosario-en-la-capital-nacional-del-nid02032023/#/>

¹⁸ More information available at: “La guerra interna. Como la lucha contra las drogas está militarizando América Latina”. Available at <https://www.cels.org.ar/web/wp-content/uploads/2018/10/LaGuerraInterna.pdf>

impact on reducing the criminal drug market or drug use¹⁹. Instead, these measures significantly affect individuals already suffering from social vulnerability, exacerbating conditions within the country's incarceration facilities.

Argentina's prison system is in a state of collapse. The Federal Penitentiary System's facilities have exceeded their declared capacity, currently housing approximately 462 more individuals than their maximal capacity. Because of that police stations of the City of Buenos Aires started to operate as small overcrowded prisons, lacking both suitable infrastructure and adequately trained personnel²⁰. Since June 2020, police stations don't have more space to accommodate more people. On the other hand, the penitentiary system of the Province of Buenos Aires houses more than 54 thousand people, surpassing its official capacity for 27 thousand.

Between 2002 and 2022, the country's prison population grew by 233%, in that period, incarceration for drug offenses grew by 388%²¹. The latter represents more than a 8% of the total prison population and contributes to worsening the conditions of confinement in prisons and police stations²². Notably, 60% of those incarcerated for drug offenses have not yet been convicted.

Another aggravating factor is the lack of policies for formerly incarcerated persons. Official data indicate that about 19% of the people who were imprisoned for drug offenses returned to committing crimes.

In recent years, several provinces have adhered to the Law 26.052 on defederalization, transferring the prosecution of drug possession and sale to consumers to the provinces of provincial jurisdictions. These offenses are on the same criminal scale as large-scale trade offenses. In these jurisdictions, the number of cases involving the sale of drugs to consumers and incarceration has increased considerably.

Drug law offenses are the main cause of women's incarceration. In 2022, 30% (1690) of incarcerated women faced charges related to this crime²³. Most of them are women living in poor neighborhoods, in charge of single-parent families with dependent children. These women get involved in the sale and micro trafficking of drugs as a survival strategy. Illicit

¹⁹ According to the last survey conducted by the National State in 2022, tobacco is the only substance in which consumption is decreasing. The same survey shows that 32.0% of the population defined drug use in their neighborhood as "serious".

https://www.argentina.gob.ar/sites/default/files/oad_2023_magnitud_del_consumo_de_sustancias_psi_coactivas_encoprac.pdf

²⁰ Source: <http://datos.jus.gob.ar/dataset/internos-del-servicio-penitenciario-federal-spf>

²¹ In 2002 there were 44969 persons deprived of liberty in Argentina and the population for drug offenses was 3345. In the year 2022, this figure will increase to 12999 and 105053, respectively. Source: National Statistical System on Sentence Execution (SNEEP).

²² The situation of persons deprived of their liberty in Argentina [cels.org.ar/specials/examenonu/wp-content/uploads/sites/13/2022/11/Privados-de-libertad-EPU-2023.pdf](https://www.cels.org.ar/specials/examenonu/wp-content/uploads/sites/13/2022/11/Privados-de-libertad-EPU-2023.pdf)

²³ "Prisoners for selling drugs: it is the main cause for women's detention" https://www.eldiarioar.com/sociedad/presas-vender-drogas-principal-causa-detencion-mujeres_1_10161711.html

drug trade, like other commercial activities, reproduces unequal gender roles. In this case, women also play the most precarious and exposed roles. This also impacts disproportionately on them given the aggravating factors of clandestinity and criminal prosecution. In the majority of cases, women with no criminal records are disproportionately punished²⁴. In the case of women, more than 70% are in prison without conviction.

In the case of women and caregivers, proportionality should be a key consideration in the sentence. The state should ensure alternative justice approaches to incarceration for minor offenses, particularly prioritizing caregivers for children and teenagers, and also for elderly people and persons with disabilities or chronic degenerative diseases.

Therefore, women and LGBT+ population in conflict with the criminal justice system should be judged applying gender perspective and with an intersectional approach.

- **3. Protecting the health of people who use drugs**

In 2010, the National Law on Mental Health and Addictions (LNSM, Law No. 26657) was enacted in Argentina. This law significantly expanded and strengthened the legal framework and guarantees concerning treatment and hospitalization of drug consumers. The law puts community-based healthcare as its main focus, excluding the previous institutionalization logic.

Supplementing this law is Law 26934, enacted in 2014, which introduces the Comprehensive Plan for Addressing Problematic Consumption (IACOP Plan). This law aims to prevent problematic consumption by establishing community centers, harm reduction initiatives, educational programs, and labor inclusion programs. Although this law has not been regulated, it has served as a starting point to promote the creation of devices and programs aligned with its principles.

The implementation of both laws is limited and varies in different jurisdictions. Since its enactment, the minimum budget needed to sustain the proposed policies and goals has not been assigned. Moreover, despite the fact that the Law 26943 includes the approach to addictions, there is still a lack of resources to effectively carry out harm reduction and social integration strategies aligned with the IACOP Plan.

These strategies recognize harm reduction as a desirable objective, while taking into account the problems of each particular jurisdiction.

It is imperative to acknowledge that severe drug use in Argentina is closely associated with situations of deep social vulnerability and impoverishment. The ongoing social and economic crisis is worsening, affecting a growing proportion of the population. The areas where illegal substances circulate, predominantly involve marginalized people, mostly young men and women, who lack access to basic rights and labor alternatives to micro-commercialization. Therefore, this population is exposed to the punitive response of the State and to drug

²⁴ For further analysis see "Punishment at home. The lives of women prisoners in their homes." Available at: <https://www.cels.org.ar/web/publicaciones/castigo-a-domicilio-la-vida-de-las-mujeres-presas-en-sus-casas/>

trafficking networks. This context reinforces their marginalized condition and also exposes them to substance abuse.

Consequently, as in other countries in the region, it is essential to design strategies that combine harm reduction with alternatives beyond a purely criminalizing perspective. These strategies must be localized, leveraging resources, networks, and local knowledge to alleviate the effects of the crisis and provide alternative solutions to substance abuse problems.

Thus, as in other countries in the region, it is essential to design strategies that can combine harm reduction with the ability to present alternatives to a purely criminalizing perspective; strategies that are situated, that recover resources, networks and local knowledge, while mitigating the effects of the crisis and providing alternative access to housing, income, security, education and health.

Despite significant progress, there are still insufficient resources to carry out the community-based treatment prescribed by the law. Consequently, many seeking treatment for drug use do so in institutions with confinement models, such as therapeutic communities operating irregularly, if not illegally. Arbitrary internment, coercive practices and mistreatment, common in these institutions, have led to deaths and crimes that have been investigated by the local courts.

With the assumption of a new national government at the end of 2023, budget allocations for these issues have been suspended. This includes the suspension of funding for programs transforming confinement institutions, community care, the creation of assisted housing for people living in mental health institutions, and pensions supporting life in community.

The current government administration is promoting a major legislative reform. The first draft of the bill, included a reform of the LNSM proposing to modify the pillars supporting a deinstitutionalization paradigm²⁵. These include respect for the will of individuals; interdisciplinary and integrated health work; the closure of asylums; non-confinement treatment inside the community; and the participation of users, family members and members of civil society in decision-making processes and the implementation of new policies. After a series of legislative debates, representatives of the Executive Branch informed that this reform would be postponed until the ordinary legislative sessions beginning in March of this year.

The progress of the last 15 years has marked a significant shift from the paradigm of criminalization and illegality in substance use cases, to a model linked to harm reduction, information and health. Further changes are necessary to continue the changes and provide officials and workers with more and better tools to provide health support that addresses the complexities of the contexts that shape drug use.

²⁵ For more information we share the following report
https://www.cels.org.ar/web/wp-content/uploads/2024/01/20240115_CELS_LEY-OMNIBUS_observaciones_SALUD-MENTAL-1.pdf

- **4. Reforming drug policies that violate human rights.**

Detentions and searches without a warrant or in flagrant crime are prevalent illegal practices carried out by the police in Argentina. Often presented as crime prevention measures, these tasks are guided by discriminatory criteria, resulting arbitrary, disproportionate and abusive²⁶ practices.

In 2009 the Supreme Court of Justice of the Nation²⁷ declared that the possession of narcotics for personal consumption is a private conduct protected by the National Constitution. However, the drug law was not modified accordingly²⁸. Therefore, the possession of narcotics for personal consumption is pursued by the police under the guise of controlling drug trafficking, but, in reality, it serves as a practice of excessive and abusive control over specific groups²⁹. Extortions, threats and arbitrary arrests are some of the forms of irregular police interventions that initially use the excuse of drug possession or consumption³⁰. This primarily targets young men from poor neighborhoods, people living on the street, trans population, sex workers and migrants, among others³¹.

²⁶ The Report of the Working Group on Arbitrary Detention on its mission to Argentina (2018) found that "the pattern of police detentions on the basis of suspicion of the commission of a crime is discriminatory and shows a bias against persons in vulnerable situations, such as street children, members of indigenous communities, migrants, and lesbian, gay, bisexual, transgender and intersex persons"
<https://www.ohchr.org/es/documents/country-reports/report-working-group-arbitrary-detention-its-mission-argentina-note>, para. 71.

²⁷ Arriola rule available at:
<http://www.sajj.gob.ar/corte-suprema-justicia-nacion-federal-ciudad-autonoma-buenos-aires-arriola-sebastian-otros-recurso-hecho-causa-9080-fa09000059-2009-08-25/123456789-950-0009-0ots-eupmoc-sollaf>

²⁸ Article 14, second paragraph of Law 23737 penalizes the possession of narcotics for personal use.
<http://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/138/texact.htm>

²⁹ In the case of FERNÁNDEZ PRIETO Y TUMBEIRO VS. ARGENTINA OFFICIAL SUMMARY ISSUED BY THE INTER-AMERICAN COURT JUDGMENT OF SEPTEMBER 1, 2020 (Merits and Reparations). The IACHR Court considered that the detention and search implied a violation of the right to privacy in the Fernández Pietro case and that it affected the honor and dignity of the person in the Tumbeiro case. The judgment established as guarantees of non-repetition that the Argentine State must adapt its domestic legal system to avoid arbitrariness in cases of detention, body search or search of a vehicle; duly train police personnel to avoid abuses in the exercise of their powers of detention and search, including training on the prohibition of exercising it in a discriminatory manner and based on profiles associated with stereotypes; a system for collecting data and figures related to stops, searches and seizures in the absence of a warrant, in order to accurately and uniformly assess the type, prevalence, trends and patterns of police actions in Argentina. In addition, the number of cases that were actually prosecuted should be specified, identifying the number of indictments, convictions and acquittals. This information should be disseminated annually by the State through the corresponding report, guaranteeing its access to the entire population in general, as well as the confidentiality of the identity of the persons arrested.

³⁰ The Working Group on Drug-Related Arbitrary Detention stated in its report published in 2021 that "3. The Working Group has found that people who use drugs are at particular risk of arbitrary detention, 3 and has noted with concern "the increase in cases of arbitrary detention as a consequence of drug control laws and policies."
<https://www.ohchr.org/es/documents/thematic-reports/ahrc4740-arbitrary-detention-relating-drug-polices-study-working-group>

³¹ For more information on situations of arbitrary arrests by police officers in the country we share the following publications: "Guerra contra el narcotráfico, guerra contra les pobres. Available at: <https://www.cels.org.ar/web/wp-content/uploads/2019/12/Guerra-contra-el-narcotrafico-guerra-contra-les-pobres.pdf> and "La Guerra contra les consumidorxs de droags debe terminar" Available at: https://www.cels.org.ar/web/wp-content/uploads/2021/05/CELS_DROGAS_May2021_FINAL_web.pdf

In the Autonomous City of Buenos Aires (CABA), during 2023, 58% of criminal cases for drug law violations originated in police arrests of drug users in public spaces³². In the province of Buenos Aires (PBA) in 2021, these interventions accounted for 55%³³. Similar scenarios are observed in other provinces: 75% in San Luis, 62% in Jujuy, 57% in La Pampa and 53% in Chubut³⁴. Information from CABA shows how these arrests are guided by police profiling based on socioeconomic, racial, and gender stigmatization that occurs in the most impoverished neighborhoods³⁵. Almost all of these cases are dismissed by the judicial system as irrelevant to the fight against drug trafficking. This shows that it only constitutes a discriminatory police practice of territorial control whose objectives are disconnected from the criminal policy strategies against drug trafficking.

Statistics on trans persons deprived of liberty have been produced since 2015. Since then, the percentage of people arrested for drug crimes has been around 40%.³⁶

The crimes of possession of drugs for personal consumption and for sale to consumers, together with the offer of sex work in the public space -considered a misdemeanor- are the main tools used by the police to carry out abusive practices against this group. Invasive searches, harassment, physical and verbal violence and the lack of recognition of gender identity are the most prevalent actions³⁷. While detention conditions are deplorable for the entire population, they are worse for trans³⁸. Ill-treatment and acts of torture by prison staff often take on a sexualized and more widespread connotation. The obstacle to access to health care is another problem that is even more aggravated in this population³⁹.

It is imperative to decriminalize drug possession for personal use and develop awareness-raising and monitoring mechanisms to prevent discriminatory practices involving racial and gender profiling by police officers.

³² Source: Source Information obtained from a request for information to the Public Prosecutor's Office of the City of Buenos Aires.

³³ Source: Public Prosecutor's Office of the Province of Buenos Aires

³⁴ Source: Office of the Attorney General for Narco-Crime <https://pes.mpf.gov.ar/>

³⁵ Communes 1, 3 and 8, where the poorest people in the city live or circulate, concentrate 70% of the arrests for drug use in the city. When we add the cases registered in commune 14, where there is an important sexual offer of women and trans people, the percentage rises to 79%. The City of Buenos Aires has 15 communes. Source: Information obtained from a request for information to the Public Prosecutor's Office of the City of Buenos Aires. The other jurisdictions do not have information that would allow a greater analysis of police arrests.

³⁶ In 2015, the trans population deprived of liberty in Argentina was 33 people and 11 of them were involved in drug offenses. In 2021, the total population was 132 people, 59 of them imprisoned for drug offenses.

³⁷ For more information on this issue, see the CELS presentation at the side event "Ending violence against women and transgender people who use drugs" held at the 66th Session of the CND Available at <https://www.youtube.com/watch?v=nnPWD4cvYMM>.

³⁸ For more information on this issue, see the CELS presentation at the side event "Ending violence against women and transgender people who use drugs" held at the 66th Session of the CND Available at <https://www.youtube.com/watch?v=nnPWD4cvYMM>.

³⁹ OTRANS, "Transvestite and transgender people in confinement situation" Diagnostic report : period 2018 - 2019. Available at <http://otransargentina.com.ar/wpcontent/uploads/2019/10/INFORME-DIAGN%C3%93STICO-A>.

- **5. Challenge: Improving data collection and analysis.**

The Argentine case shows a deficiency in constructing information on drug trade and its related problems. Parameters such as the quantity of drugs seized, the number of people involved in drug production, trafficking and users arrested and imprisoned, along with the price of drugs and the level of consumption are often presented as preferred for measuring the effectiveness of "anti-drug trafficking" policies. However, these parameters, when used isolated, do not provide an exhaustive diagnosis of the dimensions of the drug market.

Moreover, they overlook associated problems, such as obstacles to accessing healthcare and harm reduction initiatives, or the effects of the criminal justice system on the lives of the people involved and their families.

This system of metrics also generates perverse incentives, such as the annual increase in the number of arrests and seizures, often involving people who are not engaged in the drug market and conducted through abusive police practices⁴⁰.

Understanding how and on whom the criminal justice system intervenes and its impact on the drug market should be a priority. This involves identifying and differentiating the types of conduct related to drug laws leading to incarceration, describing the roles prisoners and detainees play in the trafficking chain, and understanding the socio-demographic, ethnic and gender characteristics of the detainees.

In the case of women, it is necessary to have information on the number of pregnant women, children imprisoned with their mothers, and access to healthcare for these groups. Understanding the differential effects suffered by trans persons deprived of their liberty is also crucial. Additionally, generating information on the implications of mass incarceration on families and communities is vital.

On the other hand, designing indicators to analyze the functioning of networks dedicated to drug trade and its link with violence in the territories is necessary. This includes surveying the ways in which the activities of certain gangs impact the lives of populations in terms of freedom of movement in the neighborhoods, the number and characteristics of the people involved in the illegal markets and how social and political activities are limited by the actions of these groups. In this analysis we must include the role of the security forces themselves in the circulation of different forms of violence and in the propagation of the drug market.

It is imperative to rethink indicators, to create information to present a set of objectives, targets, and indicators based on the promotion of human rights, public health and safety. This will guide governments, law enforcement agencies, health institutions and civil society to design a more effective and efficient drug policy based on evidence.

⁴⁰ Garzón Vergara J (2014), How to fix a system that doesn't work. Modernizing drug law enforcement in Latin America, TransnationalInstitute, December 2014. Available at https://www.tni.org/files/download/dlr29-s_0.pdf, // Tough on the weak, weak against the tough.