

## The Economic Necessity Associated with Imprisonment: Why do Argentinian Women Want to be in Prison?

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“I will be frank, I don’t think imprisonment is the right answer for any society for a vast majority of crimes,” he said over a cup of coffee. With a puzzled look on my face I wished to know what experiences he had to believe imprisonment, a popular sanction in Canada and around the world, was not the right answer for crime. Although I did not know it at the time, by the end of my conversation with Wade that night I agreed with him.

Wade Poziomka is a human rights lawyer for Ross & McBride LLP in Hamilton, Ontario. Wade was called to the bar in 2011, and in 2013 he received his Master of Law (LL.M.) from Cornell University in Ithaca, New York. It was during his first semester at Cornell that Wade took part in the International Human Rights Clinic, and then was asked to continue in the Advanced International Human Rights Clinic during his second semester. The Clinic’s project for the year he attended was on Argentina and the causes, conditions, and consequences of women in prison. Wade formed part of the fact-finding mission for the team that travelled to Buenos Aires to conduct research, and this is where the story begins.

Argentina has a significantly higher percentage of women being incarcerated compared to men. The rate of incarcerated women from 1990-2012 increased by 193%, while the rate of incarcerated men increased by

only 111% during that same time.<sup>1</sup> However, these statistics do not paint a complete picture of women in Argentina, as I was about to find out. As anyone would, I asked Wade why the rates of incarcerated women were so high. “Poverty,” was his response, not just for women, but Argentinians in general. Poverty continues to have a disproportionate impact upon single mothers who need to support their family. Approximately fifty six percent of the women surveyed during the study were imprisoned for drug crimes. The reason for such a high rate of incarceration among women is economic necessity. Women do not have much choice in the job market, thus they are forced into a life of crime where money can be made relatively quickly, and at decent rates. “The lack of jobs available to mothers, combined with significant payments offered by those higher up in the drug smuggling chain, left little choice for many imprisoned women,” he said, shaking his head.

In Argentina, women in prisons are paid minimum wage based on the jobs available such as creating textiles. Wade turned to me and said, “Some of

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<sup>1</sup>Cornell Law School’s Avon Global Center for Women and Justice and International Human Rights Clinic, Defensoría General de la Nación Argentina, and The University of Chicago Law School International Human Rights Clinic, *Women in Prison in Argentina*, 1.

the women we spoke with actually wanted to be in prison so they could have a job paying minimum wage.” This was shocking, as I could not imagine depriving myself of my liberties just for a job. Wade went on to explain that at least in prison women could send money home to their families for basic necessities. These women are in prison because they lack the basic resources to provide for their families. Women, who are the sole providers for their family, have little choice in a historically patriarchal country where society has left women with little alternatives for work.

Poverty, however, is not the only reason why there is such a high incarceration rate among Argentinian women. Wade said, “political influence and the international politics of the region negatively affected women as well.” The global “War on Drugs” orchestrated and led by the United States continually results in pressure being put on South American countries, including Argentina, to increase prosecutions for drug crimes. For example, the minimum sentences for drug crimes in Argentina are harsh, ranging from four to fifteen years imprisonment. This led me to ask what the goal is in incarcerating these women; I assumed the goal was restorative justice in order to prevent women from re-offending and to eliminate the problem at its root. Wade, however, was not so convinced.

“My opinion is that the goal is not restorative, or if it is, there is much more that could be done that isn’t being done.” Women’s prisons in Argentina, for example, group the “worst” behaved women together in

relatively unsupervised pavilions. However, this only fosters more violence, not restorative justice. As stated earlier, these women also have the opportunity to work in prison for minimum wage, though the work women are paid to do centre around the stereotypical “female role,” including working in a bakery, crafts, or embroidery. With dissatisfaction Wade said, “It is difficult to see how extremely lengthy prison sentences, where most women are imprisoned far away from their families and given work which may not translate into work when released can be seen as restorative.”

It was at this point during my time with Wade that I started to understand why incarceration was not the best sanction. Speaking from his previous knowledge and now experience, he told me that he does not believe people set out to be criminals, or to violate social norms, but that they do so because they have little choice. He highlighted that prisons breed criminal behavior, and that grouping violent offenders together is not rational. Wade sighed and said to me, “This is common sense in my opinion, and yet all too readily ignored.” He highlighted the fact that in Argentina, women with small children up to the age of four are allowed to accompany their mothers in the pavilions. He again stressed that while a maternal bond is important, spending the first four years of one’s life in prison has caused some children to develop violent behavior. The prison system in Argentina does not seem to be aiding women, but allowing the cycle of violence, crime, and drugs to continue.

Wade explained that the government is not doing as much as they should be to remedy the situation. I was curious if the government of Argentina is taking a proactive role in remedying the issue of women in prison. Wade offered some alternatives the government could pursue for women who commit non-violent crimes out of economic necessity. He focused on some specific alternatives:

Where incarceration is deemed necessary, eliminate the minimum mandatory sentences, reduce sentence lengths, and focus on rehabilitation and restorative justice through career training that can be used outside of the prison system. House females in prison closer to their families so they can maintain familial support, which is often essential to their well-being. Ensure that women are provided with timely access to medical care, medical screening, gender-specific hygiene products, etc. Focus on eliminating violence in prisons by placing experienced guards in pavilions. Also, eliminate the “grouping” of the “most violent” prisoners together in the same pavilion or wing.

It is clear that the system is currently flawed, and the alternatives Wade suggested made sense. However, it is a daunting task for countries to stand up to American influence. I then wished to turn to a more positive note and wanted to know if there is likely to be a

positive outcome for women in Argentina.

Optimistically, he concluded that a positive outcome could happen. Many in the legal community recognize the harm associated with incarceration, but hope that as U.S. influence decreases over time there will be a greater focus on what is effective, rather than what is popular. He went on to emphasize the fact that if the “War on Drugs” did not focus on those at the bottom (female smugglers), but on those at the top, maybe a difference could be made. As our interview wrapped up, he again condemned the utility of prisons in their current form. Pointing to the research of Angela David who wrote, *Abolition Democracy: Beyond Empire, Prisons, and Torture*, to reaffirm that prisons seem to make things worse for society, and that despite significant research that questions their utility they continue to be the most popular option in the criminal justice system.

Questioning him on his overall experience he concluded that, “There is no “right” answer, but there are certainly “better” options. For him, it is frustrating seeing the impact of international policy on logical solutions. The War on Drugs has disproportionately impacted women in South America, but many countries are unwilling to stand up to international influence. To conclude, he was pleasantly surprised with the living conditions of the prisons, but did stress that there is room for improvement saying, “The causes of imprisonment are very concerning and need to be addressed.”

Clearly, imprisoning women in Argentina who act out of economic necessity neither promotes justice within the community nor rehabilitates these women. There are deep political, economic, and social issues that plague Argentinian society. Many women are vulnerable to entering a life of crime because they cannot provide for their families. A different approach needs to be looked at when deciding how to rehabilitate offenders. Wade and his colleagues did not complete the study just to highlight the issues that plague Argentina. The study should act as a call to action to change the current system of incarceration. While simply changing the system of incarceration will not provide a remedy for the entire problem, it would be a progressive start to tackling the issues regarding the causes, conditions, and consequences of women in prison in Argentina.

## Bibliography

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