

Case Study: Argentina

Argentina: A New Look at the Challenges of Women's Participation in the Legislature

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In Argentina, mass-based political parties have had a certain degree of women's participation since their early days, from the late 19th century to the mid-20th century, but it was only in the 1980s that women increasingly emerged in party politics. This led to changes in attitude in the search for points of agreement and common objectives. Many women understood that the struggle against women's oppression should not be subordinated to other struggles, as it was actually compatible with them, and should be waged simultaneously. It was an historic opportunity, as Argentina was emerging from a lengthy dictatorship in which women had the precedent of the mobilization of the grandmothers and mothers of the Plaza de Mayo, in their white scarves.

While women in Argentina have had the right to vote and to stand for election since 1947, women's systematic exclusion from the real spheres of public power posed one of the most crucial challenges to, and criticisms of, Argentina's democracy. The political system and the legal order have not taken into account the diverse situations of women or their demands. Both have incorporated a formalist and 'neutral' point of view, which made it impossible for the system to be capable of identifying and responding to women's concerns and needs.

During the democratic transition of the 1980s, the organized groups of activists understood the importance of undertaking the struggle against gender discrimination in the context of rebuilding democracy. Women thus began their endeavour for 'parity democracy', developing practices and strategies that would reach out to women as a whole and foster greater gender awareness, with feminist demands and new analyses of power.

Argentina was the first country in Latin America to adopt a quota for women's participation in Congress. In 2005, Argentina is among the top 15 ranked countries in the world after Rwanda, Sweden, Norway, Denmark, Finland, the Netherlands, Cuba, Spain, Costa Rica, Mozambique, Belgium and Austria in terms of the representation

of women in the national legislature.

Despite the evident accomplishments, and given that the realm of politics has evolved historically based on a male model, the political culture today is profoundly gender-biased. Values and practices in the world of public affairs are particular to the male world. The dynamics of political activity, the practices and functioning of the parties, and the very way of doing politics, its language and its recognized values have been cast in the image of male models. In this context the challenges Argentine women face are still huge, although their numbers and active participation in politics have expanded.

This case study analyses women's path to power, illustrating the different legal and social mechanisms that have been used to increase the number of women legislators, and examines the role of Argentina's political parties in promoting women's participation.

The Struggle for 'Parity Democracy' in Argentina

In the late 1980s, women began to occupy positions of authority in government. One of the mechanisms used to achieve this objective was the quota system.¹ At present, Argentina has several constitutional and statutory provisions to ensure the necessary participation of women in politics, and, in particular, in the legislature.

Article 37 of the national constitution provides that real equality of opportunity as between men and women to gain access to elective and political party posts shall be guaranteed by affirmative action in regulating the political parties and in the electoral regime.

The 'women's share', or quota system, was incorporated into Argentine law by Law No. 24,012. The history of this legislation goes back to November 1989, when Margarita Malharro de Torres, national legislator for the Unión Cívica Radical (UCR, Radical Civic Union) from Mendoza, introduced legislation to amend the National Electoral Code to require that there be women members of Congress. Days later, a group of women legislators from different parties (the UCR, the Partido Justicialista, Democracia Popular, and the Partido Federal) introduced a bill using similar language in the Chamber of Deputies. That bill was debated in September 1990 and adopted by the Chamber by an overwhelming majority on 6 November 1991, with the consensus of all the political groupings except the Unión de Centro Democrático (Union of the Democratic Centre) and the Movimiento al Socialismo (MAS, Movement for Socialism) and became law (it was known at the time as the Malharro Act). It amended article 60 of the National Electoral Code by providing that at least 30 percent of the candidates on the lists proposed by the political parties must be women, and in such positions that they have a chance of getting elected. In addition, it provided that no party list would be registered that did not meet those requirements.

An analysis of the historical reasons that led to the adoption of the Quota Law could well be the subject of an extensive research project. Suffice it here to mention just some of the decisive factors. These include the evolution of women political figures and their relationship with the women's movement, the coming together of women from the different political parties, their knowledge and analysis of comparative experiences and legislation, their grasp of the problem and visions of the future, and the massive mobilization of women, especially through the Encuentros Feministas, or Feminist Gatherings, and the National Women's Meetings.

Later, the 1994 constitutional reform (adopted by a constitutional convention whose delegates were elected under the Quota Law) cleared up any lingering doubts about the law's constitutionality, as it expressly incorporated the principles underlying such measures.

Article 37 of the national constitution provides that real equality of opportunity between men and women, to gain access to elective and political party posts, shall be guaranteed by affirmative action in regulating the political parties and in the electoral regime. In addition, Article 75 gives Congress powers to adopt and promote affirmative action measures that guarantee real equality of opportunity and equal treatment. The article also guarantees the full enjoyment and exercise of the rights recognized by this constitution and the international human rights treaties in force, in particular with respect to women (section 23), according constitutional status to the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (section 22).

Finally, the second clause provides that the affirmative action alluded to in article 37 may not amount to less than the provisions in force at the time the constitution was adopted, and shall last as long as the law provides, thereby thwarting any effort to roll back the rights recognized by Law No. 24,012. This constitutionally guaranteed minimum of women's participation in politics resulted in a notable increase in the number of women in the Argentine Congress, significantly strengthening the quality of democracy.

The inclusion of women in the Chamber of Deputies, 30 percent of whose members are women at the time of writing, began in 1983. In the Senate, although the first woman was also elected in 1983, women's participation was not truly effective until 2001, when it passed 35 percent. From this time, senators were elected directly, and the full Senate was up for election, with application of the 1994 constitutional reform.

The slow implementation of the quota for the Chamber of Deputies, only half of whose members are elected at any one time, contrasts with the situation in the Senate. There, the 1994 constitutional reform mandated that all the seats be up for re-election, as noted earlier, prompting an increase in women's participation to more than 30 percent in just one year.

Figure 5: The Argentine Congress, Chamber of Deputies, 1983–2001: Numbers of Women Members and Women as a Percentage of All Members

| Year | Total Members | No. of Women Candidates | Percentage of Total |
|--------|---------------|-------------------------|---------------------|
| 1983 | 254 | 11 | 4.3 |
| 1984 | 254 | 13 | 5.1 |
| 1985 | 254 | 11 | 4.3 |
| 1986 | 254 | 12 | 4.7 |
| 1987 | 254 | 12 | 4.7 |
| 1988 | 254 | 12 | 4.7 |
| 1989 | 254 | 14 | 5.5 |
| 1990 | 254 | 16 | 6.3 |
| 1991 | 257* | 15 | 5.9 |
| 1992 | 257 | 15 | 5.9 |
| 1993** | 257 | 36 | 14.0 |
| 1994 | 257 | 38 | 14.8 |
| 1995 | 257 | 62 | 24.5 |
| 1997 | 257 | 71 | 27.6 |
| 1999 | 257 | 72 | 28.0 |
| 2001 | 257 | 77 | 30.0 |
| 2005 | 255 | 86 | 33.7 |

Sources: Botte, Susana and Evangelina Dorola, 1996. 'La representación femenina en el Congreso de la Nación' [Women's representation in the Argentine Congress]. HCND, Sec. Parlamentaria, DIP. Estudios e investigaciones 9, Mujer; Consejo Nacional de la Mujer, October 2001; Argentine Chamber of Deputies, February 2002; and Inter-Parliamentary Union (IPU), January 2005.

* The representatives from the Province of Tierra del Fuego, Antártida, and the Islas del Atlántico Sur were included.

** The National Quota Law entered into force.

Decree No. 1,246, signed in December 2000, paved the way for this. This law addressed several long-standing grievances of women in politics and civil society as expressed through the non-governmental organizations by instituting the effective placement of women candidates on the party lists for elections to the Senate, thereby expanding the scope of the Quota Law. The decree also specified that the required 30 percent is a minimum, since it provides expressly that this percentage must be applied to all candidates of the respective lists of each political party, coalition or transitory alliance. For this rule to be implemented, it must be applied to the posts up for re-election, and from the first position on the list.

Figure 6: The Argentine Congress, Senate, 1983–2001, Number of Women Members and Women as a Percentage of Total Senators

| Year | Total Members | No. of Women Candidates | Percentage of Total |
|---------|---------------|-------------------------|---------------------|
| 1983 | 46 | 3 | 6.5 |
| 1984 | 46 | 3 | 6.5 |
| 1985 | 46 | 3 | 6.5 |
| 1986 | 46 | 3 | 6.5 |
| 1987 | 46 | 3 | 6.5 |
| 1988 | 46 | 4 | 8.7 |
| 1989 | 46 | 4 | 8.7 |
| 1990 | 46 | 4 | 8.7 |
| 1991 | 46 | 4 | 8.7 |
| 1992 | 48 * | 4 | 8.7 |
| 1993 | 48 | 2 | 4.2 |
| 1994 | 48 | 2 | 4.2 |
| 1995 | 65** | 4 | 6.1 |
| 1996 | 65 | 4 | 6.1 |
| 1997 | 65 | 4 | 6.1 |
| 1999 | 66 | 2 | 3.0 |
| 2001*** | 71 | 25 | 35.2 |
| 2005 | 72 | 24 | 33.3 |

Sources: Botte, Susana and Evangelina Dorola, 1996. 'La representación femenina en el Congreso de la Nación' [Women's representation in the Argentine Congress]. HCND, Sec. Parlamentaria, DIP. Estudios e investigaciones 9, Mujer; Consejo Nacional de la Mujer, October 2001; and Argentine Chamber of Deputies, February 2002.

* The representatives of the Province of Tierra del Fuego, Antártida, and the Islas del Atlántico Sur were included.

** The composition of the Chamber was modified by the incorporation of the third senator per electoral district. Entry into force of the Quota Law as it was the first time it was applied.

*** Direct election of representatives from the provinces.

Furthermore, a uniform criterion was used in applying the 30 percent: if 30 percent resulted in a fractional number, that number would have to be rounded up to obtain the applicable figure, and a table was included in the decree to make this requirement clear. The lack of such a criterion in the 1990s led to the unjust exclusion of many women candidates throughout the country.

Finally, it is worth noting that practically all the provinces of Argentina currently have a quota law regulating the elections of their respective legislatures, and that these laws also govern local councils.

Political Parties and their Role in Promoting Women's Political Participation

Political parties play a key role in determining women's political participation. However, many of the parties do not yet have their own rules on quotas. The absence of compulsory regulation within political parties is a challenge and is undoubtedly one of the issues pending in the struggle for equal opportunity for women political activists. Nonetheless, most of the parties are gradually amending their charters or by-laws. The new progressive movements, such as *Alternativa para una República de Iguales* (ARI, Alternative for a Republic of Equals), have been formed without any 'glass ceiling'.²

Factors Affecting Women's Participation in Political Parties

In favour:

The proportional representation (PR) system with closed and blocked lists. In the Argentine case, the *lista sábana*, as it is called (closed and blocked lists) has been a positive factor in determining the proportion of women to be included in the lists. Its effectiveness can be verified by observing the smaller number of women elected in some of the provinces that have other electoral regimes.

Women's activism. The women who are able to surmount existing barriers and become included in the lists are generally activists with varying backgrounds—teachers, professionals, academics, artists, social workers and human rights activists. They are the same women who are on the lists of the new movements and alliances of the progressive sector—women who can hold their own and for whom experience in Congress is marked by both adversity and success. They are key legislators, and ardent defenders of the constitution and of strict compliance with its terms; they are the authors of most of the bills aimed at addressing women's concerns, and are responsible for significant gains in women's human rights.

Parties are required to comply with the law. Compliance with the quota resulted from the political will and organization of the majority of women activists who, even while participating actively in the political party structures, were not able to accede to decision-making positions. Women have been zealous guardians of the law, and of compliance with the sanctions provided for by law.

Sanctions. In the National Electoral Code, Law No. 24,012 provides that no party list will be registered that does not have at least 30 percent women, and in electable positions.

Against:

The mechanisms for choosing candidates. Since the Quota Law was adopted, traditional political parties have turned to various unconventional mechanisms for selecting candidates; these merit a close look. The terms for gaining access to Congress

are quite unequal. While for men the traditional 'old boys' network' of the political parties continues to function, the macho leadership appears to have decided that it is another matter for women. Based on the conception that a woman's role is an asset that is part of the community property (by virtue of marriage), wives are placed in the positions their husbands by law cannot occupy. Indeed, legislative seats likely to be occupied by women elected under the quota system are even considered family property, and daughters, sisters, friends and so on are nominated for a seat that male politicians consider they deserve. Even today, the macho leadership keeps talking about 'paying the quota' and trying, if they can, to get docile and obedient women elected to those posts.

Lessons Learned

Argentina's experience yields a series of lessons that are worth highlighting. In addition, several challenges need to be addressed to attain equality.

Among the most important lessons learned are the following.

- The quota law is a means to an end. Its proponents always considered it a means to make it possible to attain gender equality and never as an end in itself.
- The quota law sets a minimum, not a ceiling. In addition, 30 percent women's representation was considered merely the basis; it was necessary to deal with a long list of issues and questions that came up in the political parties. In many cases, even today they have not been fully addressed.
- Opening up what had been exclusive spaces is not a gratuitous concession for some women activists to gain access to candidacies from which they have hitherto been barred.
- Despite the criticisms, the implementation of the new system has led to an effective increase in the presence of women in Congress, which otherwise might well not have been attained. Therefore, beyond the polemics stirred by the measure, it has been effective in attaining the proposed objective.
- Considerable solidarity was mustered around the Quota Law among the women of different political forces, especially in cases in which the legal minimum of 30 percent was not being respected. Solidarity among women was more important than party allegiance.
- The mere fact of belonging to the female sex does not per se guarantee a gender commitment or solidarity in this effort. Some women seem to forget their own gender grievances the more quickly the closer they get to power.
- A warning is also in order regarding the attitude of women who expressly opposed quotas and showed a clear lack of solidarity, but do not hesitate to stand as candidates to fill the quota, thereby benefiting from what they opposed. This attitude is a fault which should be characterized at least as 'ethical surrender'.

Challenges

- Now that there are more women in Congress, the agenda is focused on the work that must be done to effectively promote laws and regulations to correct the socio-cultural and economic inequalities that hold back women as a whole, in order to bring about a society with more solidarity, equality and justice.
- In the legislative area, recent years have witnessed some gains and some setbacks. In several provinces laws have been adopted on family violence. Nonetheless, effective and sufficient procedures capable of guaranteeing the exercise and enjoyment of these rights have yet to be devised. In effect, such advances in the legislative sphere do not reflect the general conditions in the country, nor have they been accompanied by the support of a strong judiciary ready to ensure the implementation of and respect for such laws. On the contrary, Argentina has a justice system that is on the verge of collapse, and therefore incapable of enforcing the laws.
- Still awaiting adoption are a National Law on Reproductive Health and a Sexual Harassment in the Workplace Law that covers the cases that arise in private business: such laws as already exist only cover the federal public administration, the government of the city of Buenos Aires, and the province of Buenos Aires.
- It is also worth highlighting the need to allocate sufficient funding to support programmes that promote genuine equality of opportunity, to bolster the effectiveness of the judicial organs and to create the necessary number of shelters for abused women, and there is a need to develop efficient legislation to prevent, sanction and eradicate violence against women, which provides the necessary public policies to ensure that the commitments undertaken by the Argentine state are carried out in keeping with Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belem do para).

Conclusion

As Marcela Rodríguez states,³ the representation of women's voices, interests, perspectives and values in decision making is a necessary condition for the effective observance of women's human rights. The Argentine case bears this out. In effect, the history of democracy and human rights is the history of the successive expansion of citizenship, of including those who are marginalized by the system, of amplifying the voices and interests of those who participate in the public debate. Guaranteeing the presence of all voices in the public debate and in political processes and practices implies not only more genuine representation but a more genuine democracy.

The proposal for parity democracy is aimed at ensuring the balanced participation of men and women in political bodies. Moreover, it not only means women must

play a more active role, but it also constitutes a broader and more ambitious proposal, one entailing a profound social transformation. It involves a thorough change that would make possible a more egalitarian society and more balanced participation in all spheres of decision making in society, the economy and cultural life. It is intended to help lay the foundation for a new social contract.

Parity democracy also represents a new beginning which will make it possible to overcome situations of subordination and discrimination that affect society. However, to achieve it, merely including a female perspective on public affairs is a necessary but not a sufficient condition.

The emergence of women's discourse in the public arena is, perhaps, one of the most important characteristics of the new century. Endowed with meaning, a result of all that was not expressed, that was blocked off and rendered invisible for centuries, women's discourse renews voices in a society of words without meaning and a social fabric being torn asunder. In response to the voice of instrumental rationalism, expressed by positivist, scientific and macho men, women prioritize the sphere of communicative action, to which they bring values and feelings, without losing the rational element. Women's discourse, which can no longer be contained, will not only bring about a new way of doing politics; it will also construct a form of communication that makes it possible to re-establish social ties.

Notes

- ¹ As Marcela V. Rodríguez indicates, affirmative action recognizes that at times it is necessary to provide certain groups with unequal instruments in order to guarantee real equality of opportunity and treatment. In effect, when social inequality is the prevailing norm in the initial context prior to the distribution of goods, resources or tools, we cannot expect mere formal equality to be capable of ensuring real equality. This is especially relevant for the purposes of evaluating the legitimacy of the system of quotas for women, in a context in which gender discrimination and social hierarchy are the norm. See Rodríguez, Marcela V., 2000. 'Igualdad, democracia y acciones colectivas' [Equality, democracy and collection action], in Alda Facio and Lorena Fries (eds). *Género y Derecho* [Gender and rights]. Chile: Lom Ediciones, pp. 249ff.
- ² The expression 'glass ceiling', created in the 1970s, symbolizes the invisible barriers that keep women from reaching the highest decision-making positions in both public and private organizations. Both at work and in politics, this artificial barrier, considered by the International Labour Organization (ILO) as 'a transparent yet solid wall, made from organizational attitudes and prejudices', remains in place despite decades of social development and the strides made towards gender equality.
- ³ See note 1.