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CASE STUDY

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

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In Argentina, mass-based political parties included a degree of the participation of women going back to their early days, from the late 19th century to the mid-20th century, but it was only in the 1980s that we saw the massive emergence of women 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 mobilizations 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 be elected” 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 has 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.

***D**espite the evident accomplishments, and given that the realm of politics has historically evolved based on a male model, the political culture today is profoundly biased by the gender system. Values and practices in the world of public affairs are particular to the male world and practices.*

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 2002, Argentina was in ninth place in the world after Sweden, Denmark, Finland, Netherlands, Norway, Iceland, Germany and New Zealand in the representation of women in the national legislature.

Despite the evident accomplishments, and given that the realm of politics has historically evolved based on a male model, the political culture today is profoundly biased by the gender system. Values and practices in the world of public affairs are particular to the male world. The dynamic 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 has 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 political participation.

The Struggle for ‘Parity Democracy’ in Argentina

In the late 1980s, the task began of incorporating women into positions of authority in government. One of the mechanisms used to achieve this objective was the quota regime.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, adopted 6 November 6 1991. It amended article 60 of the National Electoral Code by providing that at least 30 per cent of the candidates on the lists proposed by the political parties must be women, and in proportions such that they have a chance of getting elected. In addition, it was provided that no list would be registered that did not meet those requirements.

The history of this legislation goes back to November 1989, when Margarita Malharro de Torres, national legislator for the Unión Cívica Radical (UCR) 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 (UCR, Partido Justicialista, Democracia Popular, and Partido Federal) introduced similar language in the Chamber of Deputies. In September 1990 that bill was debated; it was ultimately adopted by an overwhelming majority. On 6 November 1991, it was adopted by the Chamber of Deputies, with the consensus of all the political groupings except the Unión de Centro Democrático and the Movimiento al Socialismo (MAS) and became law (also known, at the time, as the Malharro Act).

An analysis of the causes and historical reasons that led to the adoption of the Quota Law could well be the subject of an extensive research project. Suffice it, then, to mention just some of the decisive factors. These include the evolution of women political figures and their relationship with the women’s movement and feminist movement; the coming together of women from the different political parties, and their knowledge and analysis of comparative experiences and legislation; their grasp of the problem and vision 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 provides, among the powers of the Congress, the power to adopt and promote affirmative action measures that guarantee real equality of opportunity and equal treatment, and the full enjoyment and exercise of the rights recognized by this Constitution and international human rights treaties in force, in particular with respect to, among others, women (section 23), according constitutional rank to the Convention on the Elimination of All Forms of Discrimination Against Women (section 22).

Finally, the second transitory clause provides that the affirmative action alluded to in article 37 may not be less than those 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, notably strengthening the quality of democracy.

Table 1: Argentine Congress: Chamber of Deputies. 1983–2001 (number of women and women members as percentage of all members)

Year	Total members	Number 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

Sources: Botte, Susana, and Dorola, Evangelina. December 1996. "La representación femenina en el Congreso de la Nación." HCND, Sec. Parlamentaria, DIP. Estudios e investigaciones 9, Mujer; Consejo Nacional de la Mujer, October 2001; Honorable Chamber of Deputies of the Nation, February 2002.

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

** The National Quota Law entered into force.

Table 2: Congress of Argentina: Senate. 1983–2001, Number of women and women as a percentage of total senators.

Year	Total members	Number 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

Sources: Botte, Susana, and Dorola, Evangelina. December 1996. "La representación femenina en el Congreso de la Nación." HCND, Sec. Parlamentaria, DIP. Estudios e investigaciones 9, Mujer; Consejo Nacional de la Mujer, October 2001; Honorable Chamber of Deputies of the Nation, February 2002.

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

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

*** Direct election of representatives from the provinces.

The inclusion of women in the Chamber of Deputies, 30 per cent of whose members are women as of this writing, began in 1983, while in the Senate, although the first woman was also elected in 1983, women's participation was not truly effective until 2001, when it surpassed 35 per cent. From this time, senators were elected directly, and the full Senate was up for election, with application of the 1994 constitutional reform.²

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 Senate situation. There, the 1994 constitutional reform mandated that all the seats be up for re-election, as noted earlier, leading women's participation to climb 32.7% in just one year.

Paving the way to this result was the signing of Decree No. 1,246 in December 2000. This law addressed several long-held grievances of women in politics and civil society in Argentina as expressed through the non-governmental organizations, by instituting the effective placement of women candidates on the party lists for the Senate, thereby expanding the scope of the Quota Law.

It was also specified that the required 30 per cent is a minimum, since it is expressly provided in the decree 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.

Furthermore, a uniform mathematical criterion was incorporated in applying the 30 per cent; it was also provided that if 30 per cent resulted in a fractional number, one would have to round up to obtain the applicable figure; 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 of 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

It is noted, and rightfully so, that political parties play a key role in determining women's political participation. Curiously, in Argentina many of the parties do not yet have their own rules on quotas, as is also the case in several European countries and other Latin American countries. This lack of compulsory regulation within political parties is a challenge and is no doubt one of the pending matters in the struggle for equal opportunity for women political activists. Nonetheless, gradually most of them are resolving this situation and amending their charters or by-laws. The new progressive movements, such as Alternativa para una República de Iguales (ARI), have been formed without any "glass ceiling".³

There are several favourable and other unfavourable factors.

Favourable:

The system of closed and blocked lists: In the Argentine case, the so-called *lista sábana* (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 activists with value added: The women who are able to surmount existing barriers and become included in the lists are generally activists with value added: teachers, professionals, academics, artists, women working in the area of social concerns and the defence of human rights. They are the same ones who are on the lists of the new movements and alliances of the progressive sector; women who can hold their own and for whom the experience in Congress is marked by both adversity and glory. They are key legislators, ardent defenders of the Constitution and strict compliance with its terms; they are the authors of most of the bills aimed at addressing women's problems, and they are responsible for significant gains in women's human rights.

Parties 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: Within the National Electoral Code, law 24,012 provides that no list will be registered that does not have at least 30 per cent women, and in electable positions.

Against:

The mechanisms for choosing candidates: Since the adoption of the Quota Law, traditional political parties have resorted 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 in place, the macho leadership appears to have decided that it is another matter for women. Based on the conception that a woman's role is as an asset that is part of the community property (in marriage), wives are placed in the positions that their husbands, by operation of law, cannot occupy; indeed, legislative seats likely to be occupied by women elected under the quota system are even considered family property, as 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 try to elect, if they can, docile and obedient women to those posts.

Lessons Learned and Challenges

Argentina’s experience yields a series of lessons worth highlighting. In addition, several challenges should be addressed to attain equality.

Among the most important **lessons** learned are the following:

- The Quota Law is a means to an end. Its backers always thought that the law was a means to make it possible to attain ulterior objectives, and never as an end in itself.
- The Quota Law sets a minimum, not a ceiling. In addition, 30 per cent women’s representation was considered merely the floor; 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 now to candidacies from which they had been barred.
- Despite the criticisms, the implementation of the new system has led to an effective increase in women in Congress, which otherwise may 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 those cases in which the legal minimum of 30 per cent was not being respected. Solidarity among women was more important than whether women candidates belonged to the same party.
- The mere fact of belonging to the female sex does not guarantee *per se* a gender commitment or solidarity in this effort. Such is the case of some women who, the closer they get to power, the more quickly they seem to forget their own gender grievances.
- A warning is also in order regarding the attitude of women who, having timely and expressly opposed quotas with a clear lack of solidarity, do not hesitate to run as candidates to fill the quota, thereby benefiting from what they opposed. This attitude is a blemish 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 rollbacks. In several provinces laws have been adopted on family violence. In addition, laws on reproductive health have been adopted along the lines of the law for the city of Buenos Aires. 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 measures. To the contrary, Argentina has a justice system on the verge of collapse, and therefore incapable of enforcing the laws.
- Still awaiting adoption is a National Law on Reproductive Health and a Sexual Harassment in the Workplace Law that covers the cases that arise in private business, as such laws as already exist reach only 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 budgetary outlays 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.
- As a result of the lack of effective and ongoing campaigns aimed at upholding the legislation that protects women, it goes unnoticed, not only by women, but in many cases by the officials in charge of implementing it.

Conclusion

The proposal for parity democracy is aimed at ensuring the balanced participation of men and women in the political bodies.

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 the 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 thoroughgoing change that would make a more egalitarian society possible 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. But to achieve it, merely including a female perspective on public affairs is necessary but not sufficient.

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.

Endnotes

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 Marcela V. Rodríguez, 2000. "Igualdad, democracia y acciones colectivas". In: Alda Facio and Lorena Fries (eds). *Género y derechos*. Chile: Lom Ediciones. pp. 249 ff.

² Marcela V. Rodríguez. 2000. p. 251.

³ 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 Organisation (ILO) as "a transparent yet solid wall, made from organizational attitudes and prejudices", remains in place despite the decades of social development and strides towards gender equality.