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The Uneven Path Towards Women’s Rights in Argentina

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Argentina’s progress towards legal equality for women has been slower than in most other Latin American countries. In 1971 Argentina’s score of 31 on the World Bank’s *Women, Business and Law* index was the lowest out of 32 nations in the Latin America and Caribbean region and 162nd out of 190 countries globally. By 2023, Argentina’s score remains below that of every major other economy in Latin America, except for Venezuela. A history of military dictatorships and the strong influence of the Catholic church in Argentine politics are associated with this slow progress.

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1 Introduction

The pursuit of gender legal equality has taken various paths around the world. This paper studies progress towards such equality in Argentina, a country with a proud tradition of women in high positions of political power, from Eva Perón to Cristina Kirchner. Argentina presents a distinctive tableau of women's empowerment over the past century. With a history of political turmoil and extended periods of military rule, Argentina's progress towards legal equality for women has been slower than in other Latin American countries.

This study of reform processes in Argentina examines the driving forces, challenges, and failures on the path towards legal equality between women and men. Argentina stands apart as a case study where there is no customary legal system to compete with the formal legal framework, a distinct characteristic that sets the stage for an interesting examination of gender reform dynamics. Previous studies on African countries reveal that the gap between the written law and customary practices presents a formidable challenge to achieving practical improvements in women's rights (Djankov, 2023; Sinha and Djankov, 2023a,b; Hyland et al 2021). Meanwhile, the United Arab Emirates showcases how the attempt to gain positive publicity plays a pivotal role in initiating gender legal reforms, with an emphasis on attracting global talent and investment (Sinha, Lehmann and Djankov, 2023).

In 1971 Argentina's score of 31 on the World Bank's *Women, Business and Law* index was the lowest out of 32 nations in the Latin America and Caribbean region and 162nd out of 190 countries. Over the next 5 decades, Argentinean politicians has made steady progress towards gender equality in a legal sense, improving its regional position on the WBL index to 20th out of 32 countries in 2022. Still, Argentina's 2023 score remains below that of every major other economy in Latin America, except for Venezuela which has lost some of its early achievements in women's legal rights.

Women's advocacy groups have long played a prominent role in Argentinian policy making (del Carmen Feijo'o and Nari, 1989). Argentina pioneered the concept of quotas for women in the national legislature, instituting a one-third quota in 1991 in its lower house of parliament (Franceschet et al., 2012). As of 2021, 42.4% of seats in parliament were held by women, above the global average of 26.5% (UN Women, 2021). There is no gender gap in the literacy rate, with the World Economic Forum's *Global Gender Gap Index* ranking Argentina first in the world for parity in educational attainment at the secondary and tertiary levels (World Economic Forum, 2023).

This study examines Argentina's legal and practical progress, noting the effect of extended periods of legislative inactivity during political turbulence. This unevenness in legislative action may have prevented women's legal issues from being at the forefront of law-making. We also explore social and political events in the lead-up to Argentina's historic legalization of divorce, a landmark shift in a nation where the Catholic Church has played a highly influential role in public discourse. Thirdly, we study the potential effects of the one-third parliamentary quota for women on the success of gender reforms.

The World Bank's *Women Business and the Law* (WBL) index provides a measure of gender equality in the legal sense by tracking inequality in legislation across the 8 indicator groups of Mobility, Workplace, Pay, Marriage, Parenthood, Entrepreneurship, Assets, and Pensions (Hyland et al., 2020). These 8 categories encompass the various avenues of legislative inequality that a woman may face from the time she enters the workforce through to retirement. In each category and for the index at large, scores range from 0 to 100, where a score of 100 implies complete legal equality. Over 5 decades between 1971 to 2023, Argentina has seen improvements in all 8 categories, managing a score of 100 for Marriage (this category deals with legislation on domestic violence, divorce, right to remarry and power imbalances within marriages) and Assets (property

ownership rights and inheritance rights). Despite such progress, Argentina's score in the categories of Pay (dealing with equal compensation for equal work laws) and Parenthood (maternity and paternity laws) remains at 50 and 60 out of 100 respectively. This achievement puts Argentina in the 39th percentile in terms of its score for the Pay sub-indicator. Parenthood is an area in which many countries could benefit from progressive laws, with Argentina's score of 60 as good as or better than 117 countries out of 190.

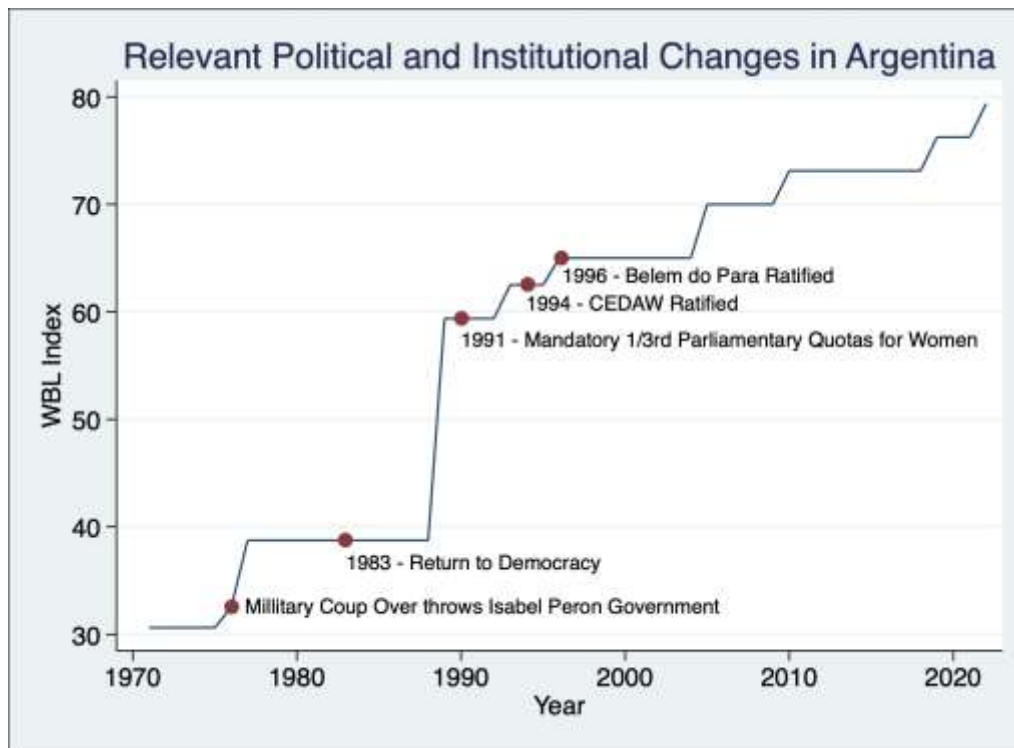
The WBL index measures gender parity in the legal sense rather than in practice. While the *Global Gender Gap Report* ranks Argentina as 24th out of 134 countries ranking it ahead of major economies like the US and Canada (World Economic Forum, 2023), its position according to the WBL index is lower, at 101 out of 190 in 2022. This disparity may indicate that contrary to the general trend, where women in many countries may have equal access and opportunity according to the law but lack equality in practice, Argentina serves as a case of having less formal legal protections but more access to opportunity in practice. The gap may also be a function of differing focus on the measurement of gender equality across indices. Argentina scores highest in the world on measures of gender parity in access to education, a metric that is incorporated heavily in the Global Gender Gap Index but does not feature in the WBL index.

The remainder of this study is organised as follows: Section 1 explores how Argentina's political history may impact gender reforms. Section 2 deals with Argentina's journey to divorce legalization and the role of the Catholic Church; section 3 explores the success and challenges of women's groups; section 4 looks at the impact of parliamentary quotas on women's legal status; section 5 examines whether legal reforms translate to female empowerment; section 6 reveals some of the persistent gender gaps and section 7 concludes.

2 Democracy as a Pre-Requisite for Legal Reform

In the late 19th century, Argentina was one of the ten richest countries in the world, with a wealth of natural resources and high human capital resulting from its impressive literacy rate (Spruk, 2019). However, a series of events following 1930 destabilized both Argentina's political life and economy, leading it to diverge from the economic path followed by high-income countries like Australia and Canada. Argentina's military played an inextricably active role in its tumultuous history. Between 1930 and 1983, the Argentinian army caused the forced dismissal of every democratically elected head of state (figure 1).

Figure 1



Note: Hyland, Djankov, and Goldberg (2020) introduce the World Bank's *Women, Business and the Law* (WBL) index as a measure of legal equality between men and women. The WBL index charts the inequality in legislation that a woman faces as she navigates her working life, from the time she can enter the labour force through retirement. Scores range from 0 to 100, where a score of 100 implies that there are no legal inequalities between men and women in the areas covered by the index. The most recent data show that the global average WBL score in 2022 is 77.1 (World Bank 2023), implying that, on average, women around the world have about three-quarters the rights of men when it comes to laws affecting their economic opportunity.

Source: World Bank (2023); authors' own calculations.

Eleven of its 16 presidents during this period were former military generals (Pion- Berlin, 1985). Argentina's best well-known president and creator of the Peronism movement Juan Perón served as an army colonel in the military regime that displaced President Hipolito Yrigoyen in Argentina's first military coup in 1930. He would himself be deposed by a military coup a quarter century later, in 1955. With repeated disruptions to the constitutional order of the Argentinian state during periods of military rule, it became common for the Presidency to pass decree-laws without consulting the Argentine Congress (ILO, 2023). In the eyes of the judiciary, these decree-laws held the same force as actual laws passed by a legislature, holding force even after a return to normal parliamentary function (Atzeni and Ghigliani, 2009). Many of Argentina's most progressive labour reforms were passed in the form of decree-laws by Juan Perón in the 1940s in his role as Labour Secretary of the military regime of the time (ILO, 2023).

Argentina's military regimes sometimes attempted economic reform, with a focus on macroeconomic stability (Munck et al., 1987). During the dictatorship of 1976-1983, the major focus of the regime's economics minister Jose Martinez de Hoz was banking reform and the control of inflation (Calvo, 1986). Legal reform was, however, not a primary focus of the regime (Waylen, 2007). Parliament was inactive for long periods of time, leaving no possibility of debating legal reform (Barrancos, 2006). Between 1976 and 1983, for example, Argentina did not see the passing of any gender equality laws. In contrast, the Dominican Republic - despite a similar history of military coups - saw significant legal change during this period (Tillman, 2021). Akin to Argentina, it started with a low WBL score of 38 in 1971, improving rapidly to a score of 55 in 1980.

While the WBL index records improvements in the years 1976 and 1977, these are a result of laws passed prior to the military coup, coming into force with a delay. For example, the Parenthood index improved from 20 to 60 in 1976. This change was driven by law No. 20.744, the Employment Contract Regime approved in 1974 by the Peronist government. The law increased

the duration of paid maternity leave from 84 days to 90 days and implemented paid paternity leave, albeit with a duration of only 2 days. It also prohibited the dismissal of pregnant workers.

This is an example of where the WBL index may mask actual practices: while the index documents that Argentinian fathers are entitled to paid paternity leave, it does not reflect the fact that a 2-day leave period allows for little true contribution to childcare. The Employment Contract Regime also mandated equal pay for equal work, resulting in the improvement of the Pay score from 0 to 25 in the WBL report year of 1977. It prohibited discrimination in employment based on Gender, improving the Workplace score from 0 to 25. However, a change in the retirement age for women to be different from that of men reduced the score on the Pension subindex from 50 to 35. As a result of these amendments to the Employment Contract regime, Argentina's WBL score improved only marginally to 39 in 1977.

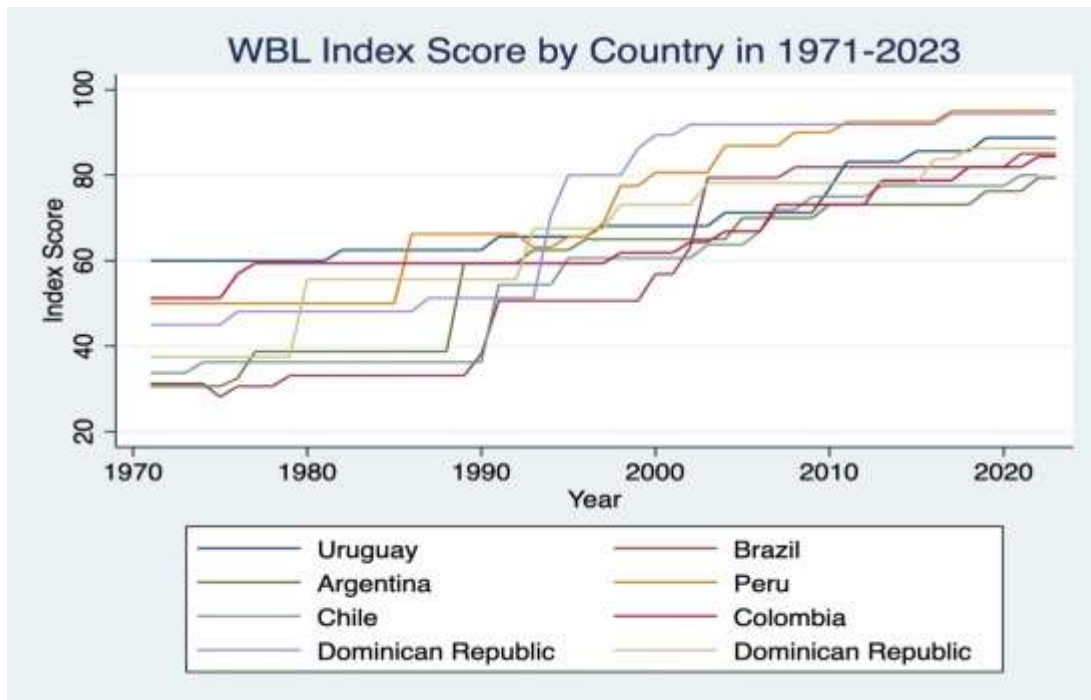
The nature of Argentina's transition to democracy and the focus of women's organizations during this time is important to note. The military regime experienced popular unrest, a major economic crisis and a humiliating defeat in the Malvinas War, causing it to announce an election in 1983 (Pion-Berlin, 1985). While some women's groups were powerful at that time, they did not focus specifically on women's issues. The group Madres de Plaza de Mayo or the 'Mothers of Plaza de Mayo' was the most influential (Waylen, 2007). They campaigned on human rights issues and advocated for the return of the many thousands of citizens who had vanished during the brutal military regime (Waylen, 2000). Their agitation was crucial to delegitimizing the military and bringing about the end of authoritarian rule. Their slogan "We are Life" became part of the presidential campaign Raul Alfonsin used to win the 1983 election (Waylen, 2007). While the Mothers were a strong and influential force within Argentinian public life, their advocacy post-military dictatorship did not transition to a focus on improving women's legal rights. A number of other feminist organizations such as the Movimiento para Liberación Femenina and the

Asociación de Mujeres Argentinas emerged but held less significance over the democratic transition or in the period after (del Carmen Feijoo, 1998).

Argentina's legal gender reforms due to the 1974 Employment Contract Regime were not the result of a gendered approach to reform either. Peronism was a mix of populism and socialism, with Perón coming to power on the back of popular support from the working class (Rock, 1993). One of his policies was sweeping labour reform, with the implementation of a minimum wage and paid leave (Kirkpatrick, 1971). In Argentina as well as many other states in Latin America, the political commitment tended to be towards economic equality (Molyneux, 1981). This focus, along with the need for rapid industrialisation post-World War II, often led to laws that liberalised labour restrictions on women's work (Pahowka, 2005). Seldom did these laws regulate gender equality in pay or prohibit discrimination in the workplace.

We observe an overall positive trend in gender legal reform across Latin America. Figure 2 compares the WBL indexes of Argentina between 1971 and 2023 to these of Peru, Colombia, the Dominican Republic and Argentina's neighbours Chile, Brazil, Paraguay, and Uruguay. These countries provide an informative comparison due to their similar economic and social characteristics. These include a history of military regimes, strong political influences of the Catholic church as well as powerful civil movements. The biggest jumps in index scores can be seen in the late 1980s and in the 1990s. In the cases of Colombia and Peru, the early 2000s also marked drastic increases in gender reforms. Paraguay and Peru are at the forefront of legal gender equality. Across Latin America and the Caribbean region, Peru scored the highest WBL score of 95, having achieved legal equality in six of the eight dimensions. With a score of 94.4, Paraguay has pioneered several legal initiatives aimed at promoting women's rights and fostering an inclusive society.

Figure 2



Note: Hyland, Djankov, and Goldberg (2020) introduce the World Bank’s *Women, Business and the Law* (WBL) index as a measure of legal equality between men and women. The WBL index charts the inequality in legislation that a woman faces as she navigates her working life, from the time she can enter the labour force through retirement. Scores range from 0 to 100, where a score of 100 implies that there are no legal inequalities between men and women in the areas covered by the index. The most recent data show that the global average WBL score in 2022 is 77.1 (World Bank 2023), implying that, on average, women around the world have about three-quarters the rights of men when it comes to laws affecting their economic opportunity.

Source: World Bank (2023); authors’ own calculations.

3 Legalisation of Divorce and The Catholic Church

The rewriting of Argentina’s Civil Marriage Code in 1987 resulted in the single largest jump in the nation’s WBL index from 39 to 58. Argentina’s journey towards divorce legalisation shows an instance of women’s groups and the legislature working in tandem to overcome opposition from religious groups, which in many Latin American countries prevented the existence of equal legal rights for women (Htun and Weldon, 2011).

The debate over divorce had divided Argentinian public opinion for much of the 20th century, with over a dozen different proposals for the enactment of a divorce provision being introduced to the legislature (Barrancos, 2006). In December 1954 during Juan Perón's presidency, a bill introduced by Delia Parodi providing for divorce to be legal was enacted into law (Wiesner, 1960). The previous year, Congresswoman Parodi was elected First Vice President of the Chamber, becoming the first Argentine woman to hold an elected leadership position in any branch.² So divisive was this issue, that ultimately it was one of the main factors that precipitated Perón's overthrow by the military. The move alienated many military officers who considered it an offence to their religious beliefs. Once Perón was overthrown, the divorce law was repealed too (Valobra and Giordano, 2013).

Upon the return to democracy, a coalition of lawyers, feminists and legislators lost no time in campaigning for divorce legislation to be re-enacted. They found support within the Women's National Directorate established in the Ministry of Health and Social Affairs by President Alfonsín in 1983 (Waylen, 2007). In 1987, Argentina passed legislation legalising divorce after more than a century of public debate pitting women's groups against the Catholic Church, a strong opponent of divorce legalisation (Pahowka, 2005). The law was successfully passed following a Supreme Court ruling saying that the 98-year-old law banning divorce in Argentina as unconstitutional. The ruling drew staunch opposition and criticism from the Catholic Church (Bendersky, 1987). However, public opinion was strongly in favour of divorce legalisation, largely due to the large number of couples who had legally separated but were unable to obtain a legal annulment of their marriage (The New York Times, 1986).

² The main press conference room of the Argentine Chamber of Deputies was named in her honour in 2003 (Barry 2013).

The introduction of the divorce legislation coincided with a low point in public sentiment towards the Catholic Church, the main proponent of the antiodivorce campaign. While an influential political power at most times in a country where 90% of the population identify as Roman Catholic, the Church's authority had diminished due to its failure to speak out against the brutal military repression during the 1976-1983 'Dirty War' (Blofield, 2013). In contrast, in Chile where a similar debate was ongoing at the same time, the Catholic Church prevailed in its efforts to block divorce legislation having cemented its moral authority by speaking out against General Pinochet's regime (Waylen, 2007). When several Argentine bishops decided to withhold the holy sacrament from legislators who had voted in favour of divorce legislation, widespread public outcry occurred. The Church had overstepped (The New York Times, 1986).

As Raul Alfonsín's government was looking to introduce a separation between the Church and State, it was unwilling to put forward strong support for the Catholic Church's cause (Htun, 2003). While these ties between Church and state may have changed over the years, a strong connection remains. In 2002, the fight for reproductive rights including abortion and universal access to contraceptives was met with harsh sanctions by the Catholic church, which held significant power within the provincial level of government (Piscopo, 2014). Similar obstacles were faced during Cristina Fernández de Kirchner's first administration in 2008. In order to implement reforms within the agrarian and tax sectors, Fernández needed support from the Church which she brokered in return for a decrease in governmental spending on contraceptives and the cancellation of the successful Salud Sexual program (Piscopo, 2014).

The legalisation of divorce in Argentina underlies the jump in its WBL score in 1989, the year the law came into force. Not only did it change Argentina's score on the Marriage indicator from 40 to 80 by enshrining the equal right to divorce and remarriage in law, but it also had effects on women's mobility, workplace, and ability to make business decisions. This impact is illustrative of

the power often vested in the institution of marriage and its ability to disadvantage women when marriage laws are not written in a gender-equal manner. Where previously the husband had power over a woman's choice of where to live and work, whether she could sign contracts, register a business, or open a bank account, the reformed Civil Code (Law 23.515) abolished this imbalance.

4 Women's Groups

Women's groups have a long history of political engagement in Argentina, dating back to the late 19th century. They played a significant part in the country's democratic transition and delegitimising the military dictatorships, especially during the military rule between 1976 and 1983 (del Carmen Feijoo, 1989). In the 1970s, the female political participation was on the rise. Various feminist organisations were created to counter the antifeminist measures, which the government started to adopt after Juan Perón's death and during Eva Perón's presidency between 1974 and 1976. Two prominent activist groups during this time were the Unión Feminista Argentina (Argentine Feminist Union) and the Movimiento de Liberación Feminista (Feminist Liberation Movement), which campaigned against the contraceptive ban and for parental rights (del Carmen Feijoo, 1989).

The Madres, the most-prominent women's group, mobilised mass support against the military regime in their fight to publicize and resist the disappearance of their sons and daughters (del Carmen Feijoo, 1989). Their approach to political participation was crisis-driven and focused on the acute human rights issues at the time. Even though the Madres' played a vital role in the democratic transition and human rights movements in Argentina, their influence and participation in day-to-day politics in a democratic, post-crisis Argentina waned. Similarly, in 1982, a local women's movement in Buenos Aires named "The National Movement of Housewives" protested the increasing living costs and their struggles to provide for their families. This movement, albeit

short-lived and localised, resulted in shopping boycotts and gained significant public and political attention.

Another example of women's groups tipping the balance in terms of enshrining women's rights in law can be seen in Argentina's debate over abortion (Wiesner 1960). The 1994 Argentinian constitution was introduced 10 years after the end of military rule. The quota of women in parliament was enforced in 1993, resulting in 26.2% of assembly members being women. This critical mass was organized across party lines and succeeded in getting the quota law or Ley de Cupos enshrined in the constitution. They also ensured the Convention on Elimination of All Forms of Discrimination Against Women featured in the constitutions (Waylen, 2007). When President Menem tried to include a pro-life clause in the Constitution, 109 women's organisations, with the support of the elected constituent assembly members rallied outside the parliament in protest. They campaigned against the clause under the banner of *Mujeres Autoconvocadas por el Derecho a Elegir la Libertad* (MADEL) or "Self-Convended Women for the Right to Choose Freedom". The Women's National Directorate made its opposition to the pro-life clause public and persisted in its opposition despite the sacking of its feminist-leaning head. As a result, the pro-life clause was omitted from the final text.

Women's groups had significant impacts on several other gender legal changes. Following their demands for change, public institutions such as the Women's National Directorate were established, allowing gender issues to be discussed within state structures. This allowed for the implementation of CEDAW, which the Women's National Directorate governed. The Directorate pushed for national and international level commitments by the government for women's rights, resulting in Argentina's ratification of the Inter-American Belem do Para convention and the subsequent domestic violence illegalisation that was adopted in 1996.

Similar to the case of Chile, women's movements played a significant role in the dismantling of the authoritarian regime (del Carmen Feijoo, 1989). Nevertheless, this pivotal role did not translate into substantial influence concerning the character of the newly formed political parties and institutions, nor did it lead to significant levels of women's political participation. These challenges are indicative of the complexities faced by women's organizations when transitioning from engagement in civil society to active involvement in the realm of politics (Piscopo and Thomas, 2017).

5 Political Representation of Women

In 1991, Argentina became the first country to introduce gender-based quotas in parliament, with a third of seats being reserved for women. The campaign to institute a quota system succeeded after efforts by an alliance of NGOs, political parties and the Women's National Directorate, a state women's body instituted within the government by President Carlos Menem. The law was introduced by a politician from the Radical Civil Union (UCR), the main opposition party. President Menem supported the legislation as he wanted to be seen as a politician ushering Argentina into a new modern and democratic age (Waylen, 2007).

The groundwork for parliamentary quotas was however put in place as far back as the 1940s and 1950s, during the age of Eva Perón. Eva Perón played an influential role in attaining universal suffrage in 1947. During the Peronist government, she helped set up Partido Peronista Feminino, the women's wing of the Partido Justicialista. Unofficial quotas existed within these parties in the 1950s, helping to establish high levels of women in political parties, if not necessarily in office. The electoral reform was effective in increasing the number of women in. State-level and province-level electoral bodies, which are governed by differently elected structures than the central government implemented similar unofficial quotas in the years that followed.

Argentina's presidential system has been described as super-powerful. As such, Argentina's parliament (i.e., the Congress) primarily serves as a system of checks and balances on the executive branch. Its influence has diminished over time, which further amplifies that achieving gender equality within Congress is less likely to translate into impactful legislative changes. Moreover, studies by Franceschet and Piscopo (2008, 2014) demonstrate how despite the quota law from 1991, men and women do not have access to the same political careers. While the gap in access to the legislative office between men and women has shrunk, higher posts such as cabinet ministers, governors and mayors remain male-dominated (Franceschet and Piscopo, 2008). As of November 2023, a quarter of cabinet ministers and a tenth of governors are women.

Argentina has a history of women heads of state, more so than any other country in Latin America. Eva Perón was the first female president of Argentina and served from 1974 to 1976, succeeding her husband Juan Perón. Prior to her tenure, she also served as Vice President. The second female presidency was held by Cristina Fernández de Kirchner who served for two terms between 2007 and 2015. She was the first democratically elected female president (Piscopo and Thomas, 2017). Despite theories arguing that the presence of female leadership advances gender reform, the case of Argentina tells a different story. As soon as Eva Perón assumed her role as head of state, retreating steps regarding contraception access and parental rights began (del Carmen Feijoo, 1989). During Cristina Fernández de Kirchner's administration, female legislators struggled to pass reform against domestic violence and sex trafficking without the support of the executive due to Fernández's positioning with the Catholic church (Piscopo, 2014). Additionally, Fernández decreased the National Women's Council's budget, rendering the agency ineffective (Piscopo, 2014).

6 Changes in Labor Outcomes

Female labour force participation in Argentina has increased by about 15 percentage points over the last half century, while male labour force participation has stagnated. However, there is no evidence of a correlation between the passage of specific laws and the increase in the labor force participation rate. In the 1990s, Argentina underwent a transformation in its policy priorities, transitioning from a bloated welfare state to embracing economic reforms. These reforms, coupled with reductions in social spending, placed increased pressure on family budgets. Many women were compelled to enter the labour market to offset male wage and job losses. Consequently, Argentina witnessed a significant surge in women's formal employment rates during this period, with an increase from 31 percent in 1980 to 44 percent in 2006 (Hyland et al 2021).

Employed women are much more likely to have higher levels of education than men, which may indicate that the barrier to entry into the workforce is higher for women. This hypothesis is supported in global data. With a World Bank's Human Capital Index (HCI) of 0.6, Argentina outperforms Latin America and the Caribbean countries, with an average score of 0.56 (Angrist et al 2021). With an expectation for a child commencing schooling at age 4 to complete approximately 12 years of education, the country emphasizes the value of education from an early age. However, when accounting for the quality of education and learning outcomes, the learning-adjusted years of school stand at 8.4 years. This suggests a potential gap between anticipated educational duration and the actual assimilation of knowledge.

Based on the Utilization-Adjusted Human Capital Index (U-HCI), which considers the unemployment status of adults, Argentina faces significant challenges in harnessing the full potential of its human capital. With a U-HCI of 0.37 (compared to the HCI score of 0.6), it is apparent that today's Argentine children may only be 37% as productive in adulthood as they could have been if they had enjoyed full schooling, health, and job opportunities. This highlights the

critical role of employment in shaping the productivity of the workforce, reflecting the interplay between education and economic participation in the country. Moreover, while the HCI score is higher for girls (0.61) than for boys (0.59), the girl's U-HCI is significantly lower at 0.32 than boys' at 0.43, underscoring the existing gender disparities in the labor market. Paradoxically, women in Argentina achieve a lower job status than men with a somewhat higher level of education.

7 Conclusion

Argentina's path to gender legal reform is shaped by its political history and the advocacy of its women. Prolonged periods of authoritarian rule resulted in legal inactivity, followed by short bursts on reform. Even though Argentina has a long-standing tradition of female political representation, this study suggests that political gains for women do not necessarily depend on the share of women in the legislative or the executive but are rather driven by activist groups and civil movements, which often have an impactful yet short momentum.

Still, Argentina's legal equality for women continues to lag behind others in the region, with some countries starting in a better position, but with many simply progressing at a faster rate. Despite a successful democratic process in the past four decades, chronic economic woes in Argentina have led to frequently-changing governments and have hindered the political and social will for gender legal reform.

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