



Gender Diversity on Boards

Is it time for quotas in Argentina?

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WOMEN IN THE ARGENTINE LEGAL SYSTEM



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The Argentine Constitution (AC) establishes principles against gender discrimination:

- **Article 14:** which establishes for workers independently from its gender equal remuneration for similar works, collaboration in management and production, free and democratic unions, adequate labor conditions, social security, etc.
- **Article 16** of AC establishes that there shall be “material equality”, which means real equality of opportunities. All people shall be equal before the law without any other condition than their capacity
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- **Article 37** of AC guaranty equal access to elective political positions
- **Article 75 section 23** of AC assign to Congress the obligation to enact laws to implement the human rights recognized by the AC and the treaties
- **Article 75 section 22** incorporates the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) adopted in 1979 by UN

WOMEN IN THE ARGENTINE LEGAL SYSTEM II



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- **The AC recognizes international treaties rank prior to local laws and second to the AC.**
- **Argentina has signed several treaties related to women rights, among them:**
 - a) The Nairobi Strategies for Empowering Women of 1985 (set up the foundations for the political and economic empowerment of women)**
 - b) The Beijing Declaration adopted by the UN at the Fourth World Conference on Women on September 1995. The resolution adopted principles concerning equality, and empowerment of women in politics and in the economy.**

WOMEN IN THE ARGENTINE LEGAL SYSTEM III



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- In addition to the AC and the treaties Argentina has adopted a complex array of different laws, regulations and programs. Among them:
 - ✓ Law 23,592 against all acts of discrimination
 - ✓ Law 26,485 for broad protection against violence and barriers to access working positions
 - ✓ Labor Law that regulates all private and public labor relations with mandatory provisions that cannot be overruled by contractual provisions
 - ✓ Decree 254/98 for the promotion of equal opportunities
- Argentina has also created an Agency INADI (National Institute against Discrimination, Xenophobia and Racism)
- Program “Red de Empresas por la Diversidad”

Law 24,012 of 1991 establishes a quota to the political parties: 30% of elected officials shall be women. As a result of this Law presently 42% of the Senators and 34% of the Representatives are women.

Almost 40% of the Committees are presided by women

30% of the Cabinet members are women

Law 25,674 establishes 30% women quotas for union delegates

The situation, though, is not so promising in the private sector: only 11% of executive positions are held by women

- **The 11% is a social disconnection as women exceed men both in undergraduate and graduate education in numbers and scores. At the University of Buenos Aires (all liberal careers) more than 60% are women**
In science careers 50% are women (but of course in engineering or industrial engineering the percentages are lower)
- **Notwithstanding, numbers are much lower in executive positions:**
 - a) CEO or General Director 23%**
 - b) Director of HHRR 9%**
 - c) President of the Board 7%**
- **There are several private initiatives that call for equality and even a draft of a law was introduced in Congress in 2007 to impose quotas But it was not pushed forward as the general sentiment is that Government shall not intervene in the private business sector**

TRANSPARENCY AND GENDER DIVERSITY IN PUBLIC COMPANIES - LAWYERS ROLE



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- **Companies that quote its shares in the Stock Exchange are subject to the supervision of the securities and exchange commission of Argentina called Comision Nacional de Valores (CNV)**
- **Under the current transparency legal framework and CNV regulations in place there is no specific obligations with respect to gender diversity in the composition of the board of directors of a company**
- **Nevertheless, if a particular company has adopted internal regulations with respect to diversity, it is an obligation of the companies that in its communications to investors or potential investors, prospectus, accounting reports and others such policy is properly reported, and it is the prerogative of the CNV to verify its compliance**
- **Helping the companies to achieve proper compliance with these reporting obligations has therefore become a new field for lawyers**

MAIN FEATURES OF THE DRAFT LAW FOR THE PRIVATE SECTOR



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- **Applicable to national and foreign owned companies**
- **Imposes a *reverse* limitation: all managing and controlling corporate bodies shall be integrated by not more than 60% of people of the same gender**
- **Existing companies will have an adjustment period of 8 years**
- **Distinction awards to be granted for shorter compliance periods**
- **Penalties : Authorizes the Office of Corporations and other government entities with jurisdiction over its activities to impose sanctions but it does not elaborate on them**

Grant Thornton published a poll that shows the market today:

- **43% of women to have access to managerial positions have been employed short periods (1-5 years)**
- **29% between 6-10 years**
- **16% had access directly (lateral hiring)**
- **Only 21% had an MBA as a requisite for a higher position**
- **47% of women agree that gender has not been a problem**
- **37% cited maternity as an obstacle**
- **32% cited family pressures as an obstacle**

ARGENTINA: A COUNTRY OF POWERFUL EMBLEMATIC POLITICAL AND BUSINESS WOMEN



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Argentina has been a country with remarkable women personalities and power independently of whether someone agree or not with their roles or ideologies:

Public Sector:

- ✓ **Eva Peron though she did not hold a government position she changed the way politics and social issues were handled in Argentina in a very short period of time (1947-1952)**
- ✓ **Cristina Kirchner (President for 8 years and former Senator for 6 years). Nobody can deny she is one of the most astute politicians Argentina has had and a leader in human rights**

Private Sector:

- ✓ **Amalia Lacroze de Fortabat. She controlled the production of cement and the construction business for more than 40 years. She was one of the Captains of the Industry sector (informal group of business consulted by all governments)**
- ✓ **Ernestina Herrera de Noble: She is the largest shareholder of the Grupo Clarín media conglomerate and director of the flagship Clarín newspaper.**

Human Rights:

- ✓ **The Mothers and Grandmothers of Plaza de Mayo (of those tortured and killed by the military government of 1976-1984)**

ARGENTINA: A COUNTRY OF POWERFUL EMBLEMATIC POLITICAL AND BUSINESS WOMEN II



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Judicial Sector:

- ✓ **Maria Angelica Barredas was the first woman admitted to practice law in Argentina in 1910.**
- ✓ **Margarita Arguas was the first woman to be appointed judge of the Supreme Court in Argentina in 1970 during a military government**
- ✓ **Carmen Argibay and Elena Highton de Nolasco were the first women appointed to the Supreme Court under a democratic government. in 2004**
- ✓ **Currently, Elena Highton de Nolasco is the only woman member of the Supreme Court after the death in 2014 of Carmen Argibay.**

Women in Argentina have attained a relatively high level of equality by Latin American standards, and in the Global Gender Gap Report prepared by the World Economic Forum in 2009, Argentine women ranked 24th among 134 countries studied in terms of their access to resources and opportunities relative to men

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