Transforming Education: The Lesson from Argentina

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Transforming Education: The Lesson from Argentina

Anne Proffitt Dupre*

ABSTRACT

This Article traces education reforms in Argentina from the colonial period to the present. Specifically, the Article focuses on La Ley Federal de Educación, passed in 1993, which sought to reform primary and secondary education throughout Argentina by promoting educational equity through a just distribution of educational services and opportunity.

The Article begins with a description of the current Argentine federal republic and the relationship of the federal government and the provinces. Next, Article describes the development of the Argentine education system.

It continues by explaining the backdrop of the adoption of Ley Federal. The Author describes the act's twenty-three rights and principles and outlines the reforms envisioned under the law. The Article then turns to an evaluation of the effects and the effectiveness of Ley Federal. The Author specifically addresses the pervasive problems with dropout rates, funding, special education, and teacher salaries.

The Author then undertakes a review of the development of a national curriculum with a special focus on diversity issues. The

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While researching this article in Argentina, I interviewed a number of people. I have tried to report as accurately as possible the words of scholars, bureaucrats, teachers, and administrators, and, when given permission, I have included their names and positions. Some persons with whom I spoke were reluctant for me to report their name. In those cases, I have identified only the person's position.
Article concludes with an evaluation of the current state of education reform in Argentina and suggests that the United States could learn a valuable lesson from Argentina's experience.

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In Argentina we all wish to transform education because we share the view that through it we can make the greatest contribution to the building of a new society, with reflexive, constructively critical, helpful people. Nobody doubts either, that a society educated to appreciate international values is the guarantee to ensure a democratic lifestyle, based on respect and self-dignity.1

I. INTRODUCTION: THE PROBLEM

When I was in Argentina researching this article, a person I was interviewing asked me, "What do Americans think of when they think of Argentina? Do they think it is good or bad?" The truthful answer was that most people in the United States do not think much about Argentina at all. Not wanting to offend a gracious host, I answered carefully that people in the United States who thought about Argentina probably thought about the film Evita, soccer, or beef. That seemed to satisfy my questioner, but it made me uncomfortable to think how little we consider this fascinating country that is the eighth largest in the world. Perhaps it is time to take notice.

The Republic of Argentina has attempted to transform its education system by passing a federal law that calls for profound changes in structure and curriculum. Although the law was passed in 1993, the question remains whether this use of federal law will improve the quality of education that is delivered to the citizens of Argentina.

The United States also has used federal law to improve education services for its citizens. Without a doubt, federal statutes and court opinions have significantly affected the education services that are available to minorities, the disabled, and females. Yet serious, seemingly intractable, problems still plague schools in the United States. Political candidates from both major parties cite education reform as a top priority. If presented with an inspired design, the United States appears to be ripe for a profound transformation.

The United States is not alone in its search for an answer to the education dilemma, however. As the world moves into the early years of the twenty-first century with excitement and trepidation, national governments throughout North and South America are grappling with the demands that emerging technologies and a complex global economy


have placed on each nation to provide a well-trained and educated work force. Only five countries in the Americas have lengthy experience with federal systems of government: Argentina, Brazil, Canada, Mexico, and the United States. The need for profound readjustment in education presents an important issue for the United States—as well as some of its neighbors—about the precise role the central government in a federal system should play in redefining the delicate interplay between economics, politics, and education.

The federal government of the United States has sought to meet this challenge by taking a long, hard look at the achievements and limitations of the nation's current educational system. In 1994 Congress passed Goals 2000: The Educate America Act. Through consultation with business leaders, economists, politicians and educators, Congress attempted to design an educational reform program that would prepare the next generation to meet the economic and technological challenges of the next century. Not a single one of the legislation's eight goals was


10. The eight goals listed in the legislation are: (1) By the year 2000 all children will start school ready to learn; (2) the high school graduation rate will be at least ninety percent; (3) schools will be free of drugs, alcohol and violence; (4) all students will leave grades four, eight and twelve having demonstrated competency in certain core subjects; (5) every school will promote partnerships to increase parental involvement; (6) all teachers will receive necessary training; (7) students in the United States should rank first
reached by the year 2000, nor are any of the goals likely to be reached in the foreseeable future. Critics of Goals 2000 state that the text of the law is too vague and too unrealistic, and that it is unnecessary federal legislation in an area that is a concern of the states.

About the same time the U.S. Congress was debating and passing Goals 2000, the federal government in Argentina began a dramatic transformation of its educational system. Beginning in 1992, the Argentine Congress, with the support of then-President Carlos Menem, passed three laws that profoundly changed the nature of education in Argentina. The basic legal framework for this transformation is comprised of the Law of Transfer of Educational Services to the Provinces, the Federal Law of Education, and the Law of Higher Education.

This Article will focus on the Federal Law of Education, La Ley Federal de Educación, or what the Argentines call "Ley Federal." Like Goals 2000, Ley Federal, passed in 1993, addresses education reform at the primary and secondary level with the aim of promoting educational equity through a just distribution of educational services and opportunity. The legislation set forth the objective of education as a social good and a common responsibility, created the rules concerning the organization and unity of the National Education System, and emphasized that the national government would assume full and undelegable responsibility regarding the supervision and implementation of education policy. Although the Argentine provinces were responsible for the management of educational services after the

in the world in science and mathematic achievement; and (8) every adult will be literate, with the necessary knowledge and skills to compete in a global economy and to exercise the rights and responsibilities of citizenship. 20 U.S.C.A. § 5812(1)-(8).

11. Frank A. Aukofer, National Report on Educational Progress Puts Wisconsin Near Head of the Class; U.S. in General Has Not Met Many Goals Set for 2000, MILWAUKEE JOURNAL SENTINEL, Dec. 3, 1999, at 1, 1999 WL 21555081 (reporting on findings of the National Education Goals Panel, which noted that progress had been made in some areas but had stalled or worsened in the areas of school safety, parental involvement, and teacher preparation).


13. Transferencias de Escuelas, Law No. 24049, July 1, 1992 (transferring educational services that still depended on the National Government to the Provinces).


15. Educación Superior, Law No. 24521, Oct. 8, 1995 (addressing issues regarding tertiary university as well as non-university studies, including teacher development).

16. The Argentines whom I interviewed all referred to this particular piece of legislation as "Ley Federal," and I also refer to it as such in this Article.

17. Law No. 24195, tit. II.

Transfer of Educational Services Act was passed in 1992, Ley Federal nonetheless set up “a markedly federal educational system in which all of the provincial educational systems, both public and private, are brought together in a process of coordination and consensus-building.”

It emphasized the need to agree on education policies “within the Federal Council of Culture and Education,” which consists of “the highest educational authorities of the twenty-three Argentine provinces and the City of Buenos Aires,” and over which the National Ministry of Education presides. Described in greater detail below, Ley Federal increased the years of compulsory education from seven years to ten years, changed the curriculum, and changed the method of school funding. In addition, Ley Federal set forth the rights of students and the rights and obligations of parents. Ley Federal also established the right of teachers to academic freedom and to advance in their profession based on their own merits.

Ley Federal was an ambitious undertaking, and its implementation has been rocky and unsteady. The rapid pace of privatization, trade liberalization, and financial market reform have seriously limited the ability of the government to allocate adequate resources to educational reform. Distrust of government intervention in this nation that has been a democracy only since 1983 fosters cynicism about the efficacy of the new programs. Yet, the desire for knowledge and the willingness to teach has survived years of even worse turmoil in Argentina, and Ley Federal’s focus on the essential values of education may help Argentina to endure this latest crisis.

This Article examines Argentina’s dramatic reform plan and, while acknowledging its shortcomings, suggest that it nevertheless offers inspiration for education reformers in the United States. It explores Argentina’s political and social landscape, focusing on the historical underpinnings of its educational system before this most recent reform effort. Argentina’s return to democracy in the 1980s set the stage for

20. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, supra note 6, at 24. See also Law No. 24195, tit. II, art. II, § 6; Law No. 24195, tits. III, X.
21. See infra notes 156-85 and accompanying text.
23. For example, learners have a right to receive education in quantity and quality such that it may further the development of their knowledge, their skills and their sense of responsibility and social solidarity. Law No. 24195, tit. VIII, art. I.
24. For example, parents have the right to be informed of the student’s progress, but they also have the obligation to supervise and support the progress of their children’s education. Id. tit. VIII, art. II.
25. Id. tit. VII, art. III.
26. See infra notes 283-99 and accompanying text.
27. See infra notes 300-05 and accompanying text.
education transformation, and the Article describes the major reform that Argentina has attempted in the last decade. Using insights gained from personal interviews with educators in Buenos Aires, the Article dissects the complex issues that have hindered progress and analogizes these problems to similar issues in the United States. The Article evaluates the extent to which aspirations emanating from the national government, in either the United States or Argentina, can ever compel needed educational reform. It argues that although neither nation has achieved success in revamping its educational system, each can learn something from the other's experience. The Article concludes by questioning why the United States which unlike Argentina, has achieved a stable economy and an enduring democracy, has been unable to solve so many of the serious problems in its educational system. Although the Argentine model may not offer a definitive answer to the many complex issues that bedevil our nation's schools, the broader spirit behind the reforms can and should energize the United States in its own efforts.

II. THE STATE AND THE STUDENT

To better understand the transformative process that Argentina has attempted in its education system, one must consider the social and political framework from which it developed. The following section first examines that framework generally and then focuses more specifically on how education has fared within it.

A. Constitutions and Coups

A federal republic organized under a constitution similar to that of the United States, Argentina is the eighth largest country in the

29. Rosenn, supra note 7, at 44 (noting that "about two-thirds of Argentina's Constitution was copied from that of the U.S."). Rosenn continues:

The Argentine Constitution follows the allocative formula of the U.S. Constitution, specifically delegating a long list of powers to the federal government. Article 121 tracks the language of the U.S. Tenth Amendment, reserving to the provinces all powers not delegated to the federal government, as well as all powers expressly reserved in special pacts made at the time of their incorporation into the federal system. Argentina's Constitution, however, departs radically from the U.S. model by expressly granting the federal government broad general powers to promote the economic prosperity of the nation and the conduct of human development, as well as the power to enact civil, commercial, penal, mining, and labor codes. Once the Argentine Congress enacts these codes, the provinces can no longer regulate any matter covered by them.

Id. at 13-14.
world, and has the sixteenth largest economy, with a population of 36.1 million people (as compared with a U.S. population of more than 270 million). Argentina is comprised of twenty-two provinces, the federal district, and one national territory that is formally autonomous in matters not specifically delegated to national government provinces. One-third of Argentina’s population resides in Buenos Aires. Argentina’s history has been heavily influenced by an upper class mainly of European descent that emerged from the colonial period. Approximately eighty-five percent of the current population is of European descent (primarily from Italy and Spain), and approximately ninety percent of the population is Roman Catholic.

The culture of Castillian Spain greatly influenced the settlement of what is now Argentina, including notions of a strong, authoritarian central government and weak parliament, an inexperience with balanced government powers, and the belief that individual freedom from government was unnecessary. These values from old Europe were transmitted to colonial Argentina and remained even after Argentina gained its independence in 1816. The provinces of Argentina joined in a confederation under the Constitution of 1853. Argentina’s constitution is the second oldest in the Americas and was based on principles of separation of powers, federalism, and a list of individual rights even more extensive than that in the U.S. Constitution. The executive branch is headed by a

30. V. W. LEONARD, POLITICIANS, PUPILS, AND PRIESTS: ARGENTINE EDUCATION SINCE 1943, at 1 (1989). Argentina has more than one million square miles of area, making it the second largest country in South America. Id.
36. ECONOMIST INTELLIGENCE UNIT, supra note 34, at 20.
39. Id. at 7-8; Elizabeth de Lima-Dantas, Historical Setting, in ARGENTINA: A COUNTRY STUDY, supra note 33, at 1, 20.
40. LEONARD, supra note 30, at 18. Buenos Aires joined the other provinces in 1862. Id. at 19-20.
41. Id. at 18.
42. Banks & Carrió, supra note 38, at 12-13. Unlike the U.S. Constitution, however, church and state were mingled. The Constitution made Roman Catholicism the
president and vice president who are elected directly; the Congress is divided into two parts, the Senate and the Chamber of Deputies; and the judicial system is led by a Supreme Court. Courts and constitutionalism, however, have traditionally been weaker in Argentina than in the United States. Unlike the common law tradition of the United States, Argentina inherited a civil law tradition, in which the bulk of the private law is set out in basic codes. The power to enact the basic codes lies with the federal government, and civil law judges have less opportunity to “find” the law. Despite the fact that the Argentine Supreme Court has explicit authorization in the constitution to exercise judicial review, neither Spain nor the early Argentine government left Argentina’s modern judges with the tradition of an independent judiciary. “Thus, the inability of the modern Argentine judiciary to exercise its constitutional powers independent of strong-willed executives, civil or military, is not surprising.”

Although political authority theoretically is divided among the national government and twenty-three semi-autonomous provinces, in practice the national government has dominated the provinces and routinely exercises its constitutional power to “intervene” in provincial matters. According to one count, between 1853 and 1976 Argentina had more than 148 cases of federal intervention, approximately one hundred of which were ordered by the executive acting alone. As one source has noted:

*In the first four years of his government . . . [President] Carlos Menem has used this power to place four of the twenty-three provinces under federal trusteeship.* Generally, the mere threat of intervention suffices to state religion and required that the president and vice president be Roman Catholic.

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44. *Banks & Carrió, supra* note 38, at 27; *Rosenn, supra* note 7, at 21.
46. *Id.* at 23 (citing *CONST. ARG. art. 116*). Even without explicit constitutional authorization, the Argentine Supreme Court had developed a system of judicial review. *Id.* A 1994 constitutional reform authorized judicial review explicitly. *Id.* Article 6 of the Argentine Constitution allows the federal government to intervene in the territory of a province to guarantee a republican form of government. *Id.* (citing *CONST. ARG. art. 6*). This was supposedly to protect the new government from uprisings from local caudillo leaders. *Banks & Carrió, supra* note 38, at 14.
48. *Rosenn, supra* note 7, at 44. *Id.* at 23 (citing *CONST. ARG. art. 116*). Even without explicit constitutional authorization, the Argentine Supreme Court had developed a system of judicial review. *Id.* A 1994 constitutional reform authorized judicial review explicitly. *Id.* Article 6 of the Argentine Constitution allows the federal government to intervene in the territory of a province to guarantee a republican form of government. *Id.* (citing *CONST. ARG. art. 6*). This was supposedly to protect the new government from uprisings from local caudillo leaders. *Banks & Carrió, supra* note 38, at 14.
49. *Banks & Carrió, supra* note 38, at 27.
50. *Id.* at 23 (citing *CONST. ARG. art. 116*). Even without explicit constitutional authorization, the Argentine Supreme Court had developed a system of judicial review. *Id.* A 1994 constitutional reform authorized judicial review explicitly. *Id.* Article 6 of the Argentine Constitution allows the federal government to intervene in the territory of a province to guarantee a republican form of government. *Id.* (citing *CONST. ARG. art. 6*). This was supposedly to protect the new government from uprisings from local caudillo leaders. *Banks & Carrió, supra* note 38, at 14.
51. *Rosenn, supra* note 7, at 44 (citing Alejandro M. Garro, *Nine Years of Transition to Democracy in Argentina: Partial Failure or Qualified Success*, 31 COLUM. J. TRANSNAT’L L. 1, 87-89 (1993)).
secure provincial compliance with the wishes of the federal government. 52
Moreover, the provinces lack fiscal autonomy, leaving them dependent
upon the federal government for financial assistance. 53

Although it had faced challenges to its constitutional system, by 1930
Argentina had experienced an uninterrupted seventy years of
constitutional succession to the presidency and eighteen years of
participatory democracy. 54 In 1930 a military coup toppled the elected
government. 55 "Thus began a downward spiral from which Argentina
has yet to recover." 56

Indeed, political instability has dominated Argentina's recent
history. 57 Since 1930, there have been five more military coups—in
rule in 1983 with the election of Raul Alfonsín. 59 In the twelve years
immediately after Argentina returned to democracy in 1983, eight
national elections took place. 60 To be sure, presidential succession under
the constitution "is without a doubt a major achievement." 61 Until
President Menem, who left office in 1999, no civilian president had
served his full term in office, 62 and no popularly elected president
transferred power to another popularly elected president from 1930 to
1989. 63 President Menem himself caused a constitutional crisis when he
suggested that he would run for a third term despite the fact that the
Constitution prohibited it. 64 Nonetheless, after Menem chose not to run,
the October 1999 election passed relatively smoothly with a big defeat
for the long-governing Perónist party and the election of President
Fernando de la Rúa, former mayor of Buenos Aires. 65

52. Id.
53. Id. Rosenn notes that "[e]ven at the federal level power is heavily centralized
in the presidency, which dominates both the Legislature and the Judiciary." Id.
54. Banks & Carrió, supra note 38, at 25.
55. Id.
56. Id.
57. Liliana De Riz, From Menem to Menem: Elections and Political Parties in
Argentina, in ARGENTINA: THE CHALLENGES OF MODERNIZATION, supra note 8, at 133.
58. Banks & Carrió, supra note 38, at 25.
60. De Riz, supra note 57, at 133.
61. Id.
64. See infra note 281 and accompanying text.
65. Argentina Elects Reformist De La Rúa; Corrupt Peronist Rule Is Soundly
Transition in Argentina, supra note 63, at B8.
B. Education in Argentina: Civilization versus Barbarism?

Argentina, which boasts a literacy rate of ninety-six percent, has long prided itself on its educational system. Not surprisingly, however, Argentina's political upheaval has affected the development of the education system. During the colonial era from the mid-1500s to 1810, there were three kinds of primary schools: state schools established by the town council, religious (Roman Catholic) schools, and private schools. Schools were a luxury, were usually religious, and were run by Roman Catholic clerics, as few town councils or families could afford state schools. In general, few children attended school because most could not afford it.

The revolution for independence from Spain in 1810 took a toll on education. Education in a particular province depended on the strength of its governor. Some towns could not spare any money for state schools, and schools disappeared entirely from some provinces. In the early 1820s, a government minister in the province of Buenos Aires, Bernardino Rivadavia, began some educational reforms, including providing schooling for girls. The University of Buenos Aires was established in 1821 and a commercial treaty with England in 1825 gave the English the right to found schools and to practice their Anglican religion.

When the provinces joined together under the Constitution of 1853, education was left to the provinces, and most provinces allowed the municipalities to deal with it. Due to the municipalities' lack of resources, education reached only a small minority of children. After the Buenos Aires province joined the confederation in 1862, the newly united nation began to establish a national educational system under the direction of the Ministry of Religion, Justice and Public Instruction,
headed by Domingo Faustino Sarmiento. In 1865, the national government signed an agreement with eight provinces to give financial aid to the schools of each province.

In 1868 Sarmiento became the fourth president of the Republic of Argentina, and he served until 1874. Sarmiento set the guidelines for the modern education system in the latter half of the nineteenth century when he emphasized "civilization versus barbarism"—a call to educate the people. With his education minister, Nicolás Avellaneda (who succeeded Sarmiento as president), Sarmiento worked to educate all social classes. After Law 463 of 1871 was passed, providing that the national treasury subsidize school construction, supplies, and teacher salaries, the national government built, financed, and supervised national schools (most of them primary) throughout the country. Sarmiento is viewed as the force behind this massive school construction plan and a literacy rate that rose from thirty-three percent in 1869 (before he became Minister of Education) to nearly fifty percent by the turn of the century. A friend of Horace Mann (who was a pioneer of public education in the United States), Sarmiento remained active in educational affairs during Avellaneda’s presidency. He lobbied for an 1875 law establishing teacher training schools and recruited teachers to staff them from the United States. In 1881 an executive decree created a National Council of Education to administer the national primary schools, and Sarmiento was named its superintendent. Sarmiento was also influential in the passage of Law 1420 of 1884, which established that national primary schools would be tuition-free and restricted the teaching of religion in the national primary schools during school hours. Sarmiento’s influence continued into the twentieth century.

77. Id. at 20.
78. Id.
79. Id.
80. WHITAKER, supra note 66, at 31.
81. LEONARD, supra note 30, at 20.
82. Id.
83. Ruth & Leonard Greenup, Education for Perón, in MOLDING THE HEARTS AND MINDS: EDUCATION, COMMUNICATIONS, AND SOCIAL CHANGE IN LATIN AMERICA 145, 146 (John A. Britton ed., 1994). The Greenups were reporters working the Argentine beat during the 1940s. Id. at 145. See also WHITAKER, supra note 66, at 59 (stating that the rate of literacy rose from twenty-two percent in 1869 to sixty-five percent in 1914, “a level not yet reached by most Latin American countries a half century later.”)
84. LEONARD, supra note 30, at 20.
85. Id.
86. Id. at 21.
87. Id. at 28-31. Sarmiento wrote newspaper articles in favor of its passage. Id. at 29. The law also had the support of the Pedagogical Congress of 1882, organized by the Ministry of Justice and Public Instruction and consisting of public school, secular teachers. Id. at 28-29. Law 1420 applied principally to national primary schools, which were not as numerous as the public schools under the authority of the provinces. Id. at 30. Nonetheless, there was fierce Catholic opposition to the law. Id. at 30-31.
Before the military coup of 1943, Argentina was viewed as a nation that focused an extraordinary amount of attention and resources on education.88

In contrast to its involvement in primary schools, the federal government did not take action at the secondary school level and left secondary education largely up to the provinces, which lacked the resources to support mass education.89 Indeed, the provinces lacked the funds to establish an outstanding system of primary schools, as the national grants for provincial primary schools were insufficient to provide for rural schools.90 In some provinces, less than fifty percent of school-age children attended school in 1914, though more than sixty percent attended school in the province and city of Buenos Aires.91 Nonetheless, Argentina was viewed as having the best public school system and the lowest illiteracy rate in Latin America.92

The 1943 coup was a decisive turning point for Argentina. A group of military leaders, known as the GOU, forcibly replaced the government of Argentina.93 One of these men was Colonel Juan Perón, who would later be elected president and whose political party is still vital in Argentina today.94 The Catholic nationalism of the new government had a profound effect on education. The new Minister of Justice was a Catholic militant and appointed another Catholic militant, José Olmedo, to the presidency of the National Council of Education.95 In March 1944 “Olmedo issued a decree suspending all primary schoolteachers, specialists, and administrators from their posts until each individual case was decided.”96 Mass discharges and suspensions of primary and secondary teachers helped to silence any dissenters against Juan Perón and the Perónistas.97 Despite its repressive policies, Perón’s government made some significant strides in education, accelerating the building of

88. Greenup, supra note 83, at 146 (stating that before the 1943 coup Argentina spent more money on education than all the countries of South America combined and spent more money on education than on its army, navy and air force). See also WHITAKER, supra note 66, at 38 (noting that Sarmiento and his predecessor, Bartolome Mitre, “gave Argentina the best public school system in Latin America”).
89. LEONARD, supra note 30, at 32-33, 43.
90. Id. at 43.
91. Id.
92. Id. at 44. By 1937, 7.5 percent of primary students were in private schools, which generally were Roman Catholic, and the rest were evenly divided between provincial and national primary schools. Id. at 45-46. Private school enrollment at the secondary level was twenty percent in 1918 and up to forty percent by 1943. Id. at 47.
93. Id. at 49. GOU was originally the Grupo Organizador y Unificador; it later became the Grupo Obra de Unificación. Id.
94. Id.
95. Id. at 51.
96. Id.
97. Greenup, supra note 83, at 147, 155.
rural and primary schools, stimulating the provincial governments to build more schools, and creating a separate Ministry of Education.\textsuperscript{98}

\textbf{C. Higher Education and the Struggle for Autonomy}

As noted above, mass discharges and suspensions of primary and secondary teachers helped to silence any dissenters against Juan Perón and the Perónistas.\textsuperscript{99} The university hierarchy, however, proved to be a stubborn foe.\textsuperscript{100} A detailed exploration of the complexity of higher education autonomy and politics in Argentina is beyond the scope of this Article, but an appreciation of the upheaval in the universities helps to put later education reforms at the secondary and primary level in sharper context. Historically, Argentina's higher education system was based upon the French tradition, which allowed for institutional autonomy.\textsuperscript{101} The University Reform of 1918 (La Reforma) resulted in a tripartite system of university governance by alumni, students, and professors.\textsuperscript{102} In practice, however, the autonomy of the universities operated fully only during the period between 1957 and 1966.\textsuperscript{103} With the exception of a short democratic period between 1974 and 1975, the universities were under the control of successive military dictatorships, and the national universities did not regain their autonomy until the reestablishment of democracy in 1984.\textsuperscript{104} By 1998, Argentina had thirty-three autonomous national universities that the national government financed and that center on research and undergraduate education.\textsuperscript{105} In addition, there are forty-four private universities and approximately eight hundred non-university institutions of higher education, both public and private, under the provincial governments, most of which specialize in teacher training.\textsuperscript{106}

After the 1943 coup and Perón's rise to power, serious confrontations occurred between Perón's higher education policies and

\begin{itemize}
\item \textsuperscript{98} LEONARD, supra note 30, at 106.
\item \textsuperscript{99} Greenup, supra note 83, at 147, 155.
\item \textsuperscript{100} Id. at 147.
\item \textsuperscript{101} Marcela Mollis, \textit{The Paradox of the Autonomy of Argentine Universities: From Liberalism to Regulation}, in \textit{LATIN AMERICAN EDUCATION: COMPARATIVE PERSPECTIVES} 219, 222-23 (Carlos Alberto Torres & Adriana Puiggrós eds., 1997). In 1885 the Argentine Congress passed Law 1597, known as the Avellaneda Law, which set forth the relationship of the two national universities to the federal government. LEONARD, supra note 30, at 34. It gave the university a status known as "limited autarchy." Autonomy was limited in that the president of Argentina appointed professors on the basis of nominations of the superior council of the university. \textit{Id.} at 35; Mollis, supra, at 223.
\item \textsuperscript{102} LEONARD, supra note 30, at 35-37.
\item \textsuperscript{103} Juan Carlos Del Bello, \textit{Notes on Structural Reform of the University System, in ARGENTINA: THE CHALLENGES OF MODERNIZATION}, supra note 8, at 315, 316.
\item \textsuperscript{104} Id. at 316-17. \textit{See also} Marcella Mollis, \textit{Argentina, in HIGHER EDUCATION IN LATIN AMERICA} 155, 159 (Lewis A. Tyler et al. eds. 1997).
\item \textsuperscript{105} Del Bello, supra note 103, at 316.
\item \textsuperscript{106} Id.
\end{itemize}
student reformists. In 1947 the Perónist Congress passed Law 13,031 that ended university autonomy. The lack of university autonomy and the intervention of the executive branch in university affairs were instrumental in transforming the Argentina University Federation (FUA), which included student representatives from the five national universities, into a political organization opposing the government. Students and faculty no longer participated in the governance of the university; the federal executive branch intervened in the appointment of University rectors and of the professors in the Directive Councils, imposed restrictions on student activism, removed pro-democratic professors, and appointed professors connected to the most conservative doctrines of the Catholic church.

Enrollment in institutions of higher education nonetheless soared between 1947 and 1954, growing 14.8% annually. Perón was deposed in 1955 in the “Liberating Revolution,” which explicitly promised to restore university autonomy and implicitly proposed the “de-Perónization of the universities.” Although enrollment growth fell after 1954, it continued to exceed the growth rate of the population. Admission standards were loosened to include vocational school graduates, and entrance exams were eliminated. Three of four high school graduates enrolled in some institution of higher education, and the teacher training colleges grew even faster than university enrollment.

High enrollment resulted in high dropout rates and few graduates because “generous access diluted quality.” One commentator has noted:

The percentage of graduates ranged from 10 to 25 percent of the number of students who had enrolled eight years earlier, while programs of study theoretically lasted four to six years. . . . Figures from the five major universities showed that the percentage of graduates who had received

108. LEONARD, supra note 30, at 109-10.
110. LEONARD, supra note 30, at 110.
111. LEONARD, supra note 30, at 51; Mollis, supra note 104, at 157.
112. Jorge Balán, Higher Education Reform: Meeting the Challenge of Economic Competition, in ARGENTINA: THE CHALLENGES OF MODERNIZATION, supra note 8, at 283, 285. In 1965 and 1966, experts from the Organization for Economic Cooperation and Development (OECD), within the framework of the Argentine National Development Council (CONADE), and with financing from the Ford Foundation, carried out an exhaustive survey of the Argentine educational system regarding the needs for qualified workers for the country's future development. Id. at 284-85.
115. Id. Schools of the University of Buenos Aires reintroduced entrance examinations in 1956, and other universities later followed suit. Id.
116. Id.
117. Id. at 286.
their degree during the period specified by their programs was never more than 30 percent of total enrollment; approximately half took three or more years more than what is formally required to graduate.\textsuperscript{118} This low percentage was attributed to the fact that most students attended part-time, prompted in part by economic necessity, but also because of the prevailing student culture where part-time attendance was the norm.\textsuperscript{119} Additionally, a large majority of the professors worked only part-time at the universities as well; their real jobs were in their businesses and professional offices.\textsuperscript{120}

In 1960, private institutions (mostly Catholic) were authorized for the first time to grant diplomas and titles.\textsuperscript{121} "This legislation broke the state's monopoly as the sole custodian of higher education and instigated vital student demonstration against it, under the slogan 'Lay or Free.'"\textsuperscript{122}

This restyling of higher education was abruptly transformed by a 1966 military coup. The 1966 coup brought a tumultuous end to this program of internal change, severely limiting academic autonomy and the capacity for self-management of the institutions of higher learning.\textsuperscript{123}

D. Chaos

After the 1966 coup, General Ongania and his successors, Generals Levingston and Lanusse, stayed in power without elections until 1973, when the military withdrew and allowed Perón to return.\textsuperscript{124} University autonomy was revoked yet again, entry level restrictions were abolished, and teaching hours were spread further through the day and evening.\textsuperscript{125} After Perón died in 1974\textsuperscript{126} and was succeeded by his wife Isabel, internal strife among Perónist followers and deteriorating economic conditions gave the military the opening it needed.\textsuperscript{127} In March 1976 General Jorge Rafael Videla seized power from the Perónists.\textsuperscript{128} From 1976 until democracy was restored in 1983, Argentina had nine

\textsuperscript{118} \textit{Id.}
\textsuperscript{119} \textit{Id.} This is a common model in Latin America.
\textsuperscript{120} \textit{Id.} In my observation while researching this Article in Buenos Aires, this continues to be true of both students and professors.
\textsuperscript{121} Mollis, supra note 104, at 157.
\textsuperscript{122} \textit{Id.}
\textsuperscript{123} Balán, supra note 112, at 288.
\textsuperscript{124} Leslie Elliott Armijo, \textit{Menem's Mania?: The Timing of Privatization in Argentina}, 1 Sw. J. L. & TRADE AM. 1, 3 (1994); Caistor, supra note 28, at 185.
\textsuperscript{125} Caistor, supra note 28, at 185-86.
\textsuperscript{126} GARY W. WYNIA, ARGENTINA: ILLUSIONS AND REALITIES 59-63 (2d ed. 1992).
\textsuperscript{127} Perón died of natural causes in 1974. \textit{Id.} at 61.
\textsuperscript{128} LEONARD, supra note 30, at 276.
presidents and a half-dozen education ministers. Inflation ranged from more than 100 percent to 600 percent and the political landscape careened from “full-blooded left-wing idealism to right-wing populism to bloody free-market militarism . . .”

After the 1976 coup, military leaders identified universities and the educational system in general as “one of the main areas for attack.” Any notion of education reform was out of the question and was replaced instead with physical repression, the invasion of campuses, and the arrest and “disappearance” of lecturers and students identified with the Left. Two thousand university teachers were sacked in the first three months after the coup, either under a law that allowed the military junta to dismiss any civil servant they wished or under a new university law that forbade any activity in disagreement with the basic aims of the national reorganization. Admissions were restricted, suspect faculties were shut down entirely and “many subjects, such as librarianship, information science and social anthropology, were taken out of the universities altogether.”

During the period from 1976 to 1983, “more than ten thousand citizens were ’disappeared’ by the armed forces, acting in the name of the state and its struggle against subversion.”

The military governments, attempting to follow free market economic principles in the field of education, drastically reduced government spending on education and sought to return the responsibility for education to each of the provinces. These efforts resulted in furthering the gap between the relatively rich coastal provinces and the poorer interior provinces. Staff in the government institutions became demoralized by “strict bureaucratic and ideological control” and by “increasingly inadequate salaries [that were] often paid so late that inflation had already cut their value by half or more.”

129. For a list of presidents and education ministers since 1943, see id. at 419-23.
130. Caistor, supra note 28, at 183.
131. Id. at 186.
132. Id.
133. Id. at 187. The two laws were Law No. 21274 and Law No. 21276, art. 12. Article 7 of Law No. 21276 also forbade teachers to engage in propaganda regarding trade union activity. Caistor, supra note 28, at 187.
134. Caistor, supra note 28, at 188. Severe first-year entry limitations were imposed in subjects such as economics, medicine, and engineering. Id. See also Balán, supra note 112, at 288.
137. Id.
138. Id.
E. Return to Democracy

By late 1982 when General Galtieri's desperate attempt to win popularity by taking the Malvinas/Falkland Islands ended in war and disaster, Argentina's education system had hit rock bottom. Not until the current administration's predecessor, Raúl Alfonsín, ascended to power through the return to democratic national elections in October 1983 did meaningful educational reform become possible. A number of longstanding problems needed to be addressed, including the exclusion of 5% of the school population from compulsory primary education, a dropout rate that ranged from 12.1% in the city of Buenos Aires to a disturbing 58.1% in one province, and historically low teacher salaries. Moreover, by 1960, Argentina had “at least four types of primary schools and almost always three types of secondary schools as well, including public national schools, public provincial schools, and private schools supervised by the provincial government,” each with its own plans, programs, standards, supervisors, and salaries, but all operating within a federal subsystem. The federal government had concerned itself primarily with national schools, and “schools in general, and education as a whole, did not receive the same attention.” The military government of the late 1960s had begun the process of transferring the schools created by the federal government back to the provinces, but the process did not culminate until the 1990s. Without careful support and definition, however, some observers were concerned that decentralization would exacerbate the differences between the poor and richer districts.

In response to the desperate crisis of the educational system, the Alfonsín administration organized a forum for negotiation and consensus-building, the National Pedagogical Congress, held from 1986-88, and this conference marked the turnaround in educational decline.

139. Balán, supra note 112, at 288. Balán notes:

A few months after the inauguration of the constitutional authorities late in 1983, the Argentine Congress passed a law establishing a one-year period for normalization of all the national universities, restoring the model of autonomy and self-government of the 1960s. Since then, they have been governed by collegiate bodies with representatives elected by tenured professors, alumni, and students, who choose the executive officers without any intervention by the national authorities.

140. Braslavsky, supra note 8, at 298. In some sectors, teacher salaries were less than $300 U.S. dollars per month. Id. Another problem was that teachers were rewarded more for seniority than for training and performance. Id.

141. Id. at 300. The schools operated under a subsystem centered on the federal capital and with little connection to the provincial government. Id.

142. Id. at 301.

143. Id. at 303.

144. Id. at 298-99.
ARGENTINE EDUCATIONAL REFORMS

The Alfonsín administration helped to frame proposals to create systems that could be part of the restructuring—including a system to evaluate the quality of education—but it focused mainly on laying the groundwork for formulating and implementing a series of policies aimed at improving those educational services under the government's direct control—that is, the thirty-six percent of the secondary schools nationwide that were federal schools.145

At the higher education level, the policy of restricted entry imposed under military rule was swept away, and a free tuition policy was implemented, resulting in burgeoning student populations.146 University budgets became totally dependent on payments from the national government to make up serious shortfalls because their own revenues were always limited and unpredictable.147 This budget crisis escalated as Argentina instituted severe economic and fiscal reforms to bring hyperinflation under control.148 Although financing for the national universities actually increased from 1984 to 1987, the severe fiscal constraints imposed on federal spending by the state of the economy left no funds for salary hikes or for investment.149 Dropout rates were high and teaching staffs consisted of part-time personnel with no graduate-level training.150 The demands of economic competitiveness were met with a decline in the number of students in scientific and technological areas.151 In short, "[t]he situation could be described as institutional paralysis, an inability to take initiative on the part of both institutions and government . . . ."152

Serious educational reform began to accelerate in 1993 when, under the administration of President Menem (who was first elected in 1989), the Federal Education Act was passed. The Law of Transfer, passed in 1992, began the process by transferring to the provinces the responsibility for the management of educational services that still depended on the national government.153 Ley Federal, The Federal Education Act, designed a new role for the National State as "a prompter of education," to encourage the innovation that would increase the

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145.  Id. at 305.
146.  Balán, supra note 112, at 288; Caistor, supra note 28, at 190.
148.  Id. at 288; WYNIA, supra note 126, at 174-87; Caistor, supra note 28, at 190-91.
149.  Balán, supra note 112, at 289.
150.  Id. at 290.
151.  Id.
152.  Id. at 291.
153.  See generally Law No. 24049, supra note 13. See also MINISTERIO DE CULTURA Y EDUCACIÓN DE LA NACIÓN ARGENTINA, supra note 1, at 1; UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, supra note 6, at 24, 34. As noted above, primary school services had been transferred to the provinces in the 1970s; the 1992 law transferred secondary schools as well as tertiary institutions. In addition, under the 1992 law private education would depend on provincial governments and would receive allowances in some cases. MINISTERIO DE CULTURA Y EDUCACIÓN DE LA NACIÓN ARGENTINA, supra note 1, at 20.
quality of education. The legislation promoted sharing among systems "to facilitate the circulation of information, to promote training, to receive technical assistance and to have a 'reparation' function—that is, to assist the most underprivileged populations and schools." The next section examines the provisions of Ley Federal.

III. LEY FEDERAL

Unlike the United States Constitution—which does not mention education—the Argentine Constitution specifically provides for the right "to teach and learn." That right is emphasized in the first sentence of Ley Federal:

The constitutional right to teach and learn is regulated . . . by this Act which . . . sets forth the objectives of education as a social good and a common responsibility, creates the rules concerning the organization and unity of the National Education System and marks the beginning and orientation of its gradual reconversion for the continuous adjustment to national needs within the integration process.

The Act provides that the National State shall set down the basic guidelines of education policy, based on an eclectic assortment of twenty-three listed rights and principles. Many of the rights and principles listed in Ley Federal, like equality of opportunity and rejection of discrimination, echo educational concerns in the United States. Others, like securing the Nation's sovereignty and consolidating democracy, provide a revealing insight into Argentina's social and political character. The list includes the following: (1) enhancing national identity with due regard for local, provincial and regional idiosyncrasies, (2) the freedom to teach and learn, (3) the conception of work as man's self-realization, (4) the integration of individuals with special needs, (5) the absence of stereotypes in didactic materials, (6) the right of indigenous communities to preserve their cultural patterns, (7) the creation of favorable conditions to help individuals live together in a pluralistic society, (8) the right of parents to form associations supporting educational actions, (9) the right of students to dignity, freedom of thought and expression, and (10) the right of all teachers to have their profession dignified and upgraded.

154. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, supra note 6, at 34.
155. Braslavsky, supra note 8, at 305 (citing THOMAS S. POPKEWITZ, A POLITICAL SOCIOLOGY OF EDUCATIONAL REFORM (1991)).
156. CONST. ARC. art. 14 ("de enseñar y aprender").
158. Id. tit. II, § 5(f).
159. Id. tit. II, §§ 5(b)-(c).
160. Id.
Ley Federal establishes ten years of compulsory schooling, beginning at age five. In addition, it sets up a national curriculum. After one year called the Initial Level, the student completes nine years of Basic General Education, which is organized in three cycles. The next cycle is three years of "Polymodal" Education, which may be followed by Higher Education at a university or non-university, such as teacher training or technical training institutes.

Article VII of Ley Federal, entitled "Special Systems," provides for Special Education, Adult Education, and Artistic Education. Unlike the United States, where the education of disabled students is addressed in detailed and complex legislation that focuses only on the disabled, the Argentine Federal Education Act deals with special education in three short paragraphs. The Act provides that the objective of special education is to guarantee that those with special needs are served as soon as they are detected in special education centers and schools. It further states that training will be oriented toward the person's full development, in addition to occupational training that will allow the person to be incorporated into the occupational and production spheres. A far cry from the full inclusion movement in the United States, which calls for the full inclusion of all disabled students in the regular classroom no matter how severe the disability, Ley Federal states that teams of professionals will assess students at special centers or schools regularly to facilitate their incorporation to common school units.

The goals of the Adult Education program in Ley Federal are to train those persons who do not complete the basic education program, to offer educational services to inmates, and to provide those who are performing their obligatory military service with education. The Artistic Education section provides that teachers who are graduates of art schools will direct the program and that the contents of this special program will correspond with that of the regular system.

The Act specifies which agents may provide private education and states that these agents must follow the guidelines of the national and

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161. The Initial Level begins at age 3, but it is mandatory only at age 5. Id. tit. III, § 10.
162. Id. The Act also includes provisions for occupational training for those who have completed the Basic General Education. Id. tit. III, art. I, § 11.
168. Id. tit. III, art. 7, pt. C.
provincial education policies. Unlike the United States, the State contributes to teacher salaries in private schools, but it does so under a very open formula that is supposed to consider principles of justice, the social function of the private school, the kind of educational establishment, and monthly fees. Again in contrast to the United States, teachers working in recognized private schools have the right to earn a minimum salary equal to that of teachers working in state schools, and they must have recognized degrees.

One of the more interesting sections of Ley Federal defines “educational community” and sets forth both the rights and the duties of its members. The notion of an educational community in which members have rights and responsibilities is a departure from the model of teachers accommodating students that generally prevails in the United States. For example, although parents are considered the natural and primary agents of education, their responsibility to the education community is spelled out explicitly: to make their children comply with Basic and Mandatory General Education (or with Special Education); to supervise and support their children's education; and to respect and make their children respect the norms of solidarity within the educational unit.

Ley Federal also outlines the duties of the national Ministry of Education, which include developing national programs of technical and financial cooperation, organizing teacher training, and ensuring compliance with the objectives of the national system of education. Together with the Federal Council of Education, the law directs the Ministry to establish curriculum objectives and contents and to implement special programs designed to guarantee students' entrance and completion of the cycles of the national system. The national Minister of Education presides over the Federal Council of Education and Culture, which consists of the education ministers of each of the provinces (and of the Municipality of the City of Buenos Aires) and a representative of the Interuniversity Council. In essence, the Federal Council is the entity created to reach agreement on all areas not addressed in the law, including the specifics of curriculum and teacher training and accreditation. In addition, the council is responsible for

169. Id. tit. V, § 36.
170. Id. tit. V, § 37.
171. Id. tit. V, § 38.
172. Compare Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503, 512 (1969) (stating that “[t]he principal use to which the schools are dedicated is to accommodate students...”), with Dupre, supra note 165, at 842 (explaining how effective teaching is a function of the “community of learning”).
175. Id.
176. Id. tit. X, art. II, § 54. See also Braslavsky, supra note 8, at 305-06.
177. Law No. 24195, tit. X, art. II, § 54.
providing technical assistance to the provincial ministries in order to increase their capability to implement policies consistent with the federal agreements.”

After one year of consultation, proposals, and discussion by interested persons of different ideologies, religions, and geographical areas, the Federal Council agreed on the Common Basic Contents for curriculum. At the same time, a new framework for teacher training and development was established.

The Higher Education Act, passed in 1995, extended the reach of reform to all institutions of higher learning, including university and non-university tertiary level institutions. While the overall design and passage of Argentina's detailed and comprehensive educational reform program was accomplished without inordinate difficulty, certain articles of the Higher Education Law, “such as the restrictions of student participation in the governing system or the authorization to charge fees generated legal challenges, institutional conflicts and even violent confrontations with the police.”

General agreement exists in Argentina that the public university system is in a state of crisis. In a striking parallel to the debate that surrounds the school voucher issue in the United States, one side perceives the nature of the educational crisis as one of performance, and the other side understands it as a crisis of funding. Debate has raged over the direction the university should take. The government has argued that the university has become “obsolete, inefficient, insensitive to societal demands, and unwilling to adapt to the new era of fiscal restraint[,]” while those in the university community argue that “the state is abandoning the public university, and that, given the poor working conditions, the scarcity of resources, and the high quality of graduates and research products, the public university is one of the most efficient social institutions.”

Major change in any entrenched institution is a long and hard process. Argentina's attempt to transform its education system has been no exception. The next section assesses the progress of the transformation.

178. Braslavsky, supra note 8, at 306.
179. Id. at 306-08.
180. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, supra note 6, at 50, 52.
181. See generally Educación Superior, Law No. 24521 (addressing issues regarding tertiary university as well as non-university studies, including teacher development).
183. In Argentina it is the government that perceives the nature of the educational crisis as one of performance whereas the academic community understands it as a crisis of funding. Id. at 237-38.
184. Id. at 237.
185. Id.
IV. ASSESSING THE TRANSFORMATION

Despite the high-minded language and intent of Ley Federal, the new reform has been stymied on several fronts. The lack of funding for teacher salaries and basic supplies has undermined progress. Educators and administrators reveal more cynicism than optimism regarding the future of reform. After years of political upheaval, many seem distrustful of government initiatives and appear resigned to disappointment. 186

A. Funding Issues

The early years of transformation have not been easy. The Secretary General of Universidad del Salvador expressed concern that lack of funding would be a way that the new law could be undermined and attacked. 187 Indeed, some teachers have called for Ley Federal to be abolished because “it places too much burden on the states and does little to improve the quality of education.” 188 They maintain that the new education system does not provide adequate resources for poor, rural provinces, a complaint that is all too familiar to many in the United States. 189 One primary school teacher declared, “Our constitution says equal opportunity for all. Our constitution is not being respected regarding education.” 189 Teachers must use their own money to buy chalk, paper, and other supplies for students. 191

The effect of [Ley Federal] has been that instead of the federal government paying 80 percent of the cost of educating a child and the provinces shouldering 20 percent, those shares have been reversed. But the financially struggling provinces are slashing their education budgets, and schools are not getting the money they expected. Class sizes have swollen. 192

With no supplies and no textbooks, parents have been asked to contribute anywhere from two to eight dollars a month—according to Susana Ortiz, a primary teacher, who had an average of thirty-five to forty students in her classroom—but some parents cannot afford to pay

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186. Interview with Oscar Greiser, Instituto de Educación Continua VRA-USAL (Universidad del Salvador), in Buenos Aires, Argentina (May 27, 1999). See also Tomás E. Martínez, In Latin America the Free Market Has Worsened Poverty, SACRAMENTO BEE, May 9, 1997, at B7 (noting that the middle classes in Argentina, the key to education, seem resigned and defeated).
187. Interview with Dr. Pablo Varela, Secretary General of USAL (Universidad del Salvador), in Buenos Aires, Argentina (May 24, 1999).
188. Marrison, supra note 22, at 16A.
189. Id. (noting that a coalition of school districts in Ohio made the same argument to overturn that state’s system of school funding).
190. Id.
191. Id.
192. Id.
A U.S. embassy official has stated that "[t]he system is in a state of crisis" because of underfunded schools and underpaid teachers.\footnote{Id. (quoting Robert Hagen).} Because of the lack of schools in some poorer provinces, some children have been forced to travel to another country for their education. In the province of Salta, children have made dangerous crossings over the Tarija River—on horseback, with water up to the stirrups—into Bolivia so they could attend school. In 1998, while Bolivia had twelve schools along a sixty-five kilometer stretch of the river, Argentina had only one, and that school was filled to over twice its capacity.\footnote{Dolores Etchevery, \textit{En Madrejones siguen sin escuelas}, \textit{La NACION LINE} (June 24, 1998), at http://www.lanacion.com.ar/98/06/24/g60.htm (on file with the Vanderbilt Journal of Transnational Law).}

Even officials in the Ministry of Education have admitted to major problems in the nation's rural areas. A major concern is that, despite the fact that Ley Federal makes school compulsory to age fourteen, many students in rural areas leave after the second Basic General Education cycle (at age eleven) to work at agricultural jobs.\footnote{Interview with Marí Cristina Hisse, Plan Social Educativo, Argentina National Ministry of Culture and Education, in Buenos Aires, Argentina (May 23, 1999). For example, children work in the wool, wine, and sugar cane industries. \textit{Id.} \textit{See also} Interview with Oscar Greiser, supra note 186 (stating that studies have shown that thirty percent of students drop out by the fifth grade and seventy percent drop out by the seventh grade).} The government is studying the feasibility of providing the neediest portions of the population with scholarships for children of up to $90 per month if the children committed to staying in school until age eighteen.\footnote{Interview with Marí Cristina Hisse, supra note 196. For example, children work in the wool, wine, and sugar cane industries. \textit{Id.}}

This problem is not limited to rural areas. Children as young as ten years old can be seen playing small accordions for money in the streets of Buenos Aires outside McDonald's and other eating establishments in the middle of the school day. According to locals, these poor children...
stay out of school to earn money and there is little enforcement of the compulsory school law if the parents disregard it.199

Yet another problem in the rural areas is the lack of trained teachers to implement the third cycle of the General Basic Education, which calls for more specialized and technical courses for students ages twelve to fourteen.200 One proposal is to institute a program of visiting teachers to teach the more specialized courses, but funding issues regarding teacher salaries have hindered this effort.201

Teacher salaries have indeed been a major issue confronting the new reform. In April 1997, across the street from Buenos Aires’ Congress Building, the teachers union (CTERA) installed a large white tent, to be staffed on a rotating basis with protesting teachers who had not received a raise in six years.202 Teachers are often paid less than bus drivers, with many being paid a base salary of $200 a month to work five four-hour days a week, while the base pay in some wealthier provinces is between $400 and $500.203 Some teachers in Buenos Aires are called “taxi teachers” because they teach a morning session at one school, an afternoon session at another school across town, and night classes at still another school.204

As in the United States, most teachers in the lower education level are women.205 The promises of increased status and increased salary for teachers have been slow in materializing.206 The protest tent remained in place for well over two years until the Congress passed a tax increase in December 1999 that was designed to generate enough revenue to increase teachers’ salaries by $60 to $120 a month.207 During that two-year-plus period, teachers participated in numerous national strikes, fasts, and demonstrations.208 As Secretary General Varela put it, the public is aware of the teachers’ low salaries and views the teachers with

199. Interview with Oscar Greiser, supra note 186 (stating that compulsory education laws are not enforced).
201. Id.
203. Marrison, supra note 22, at 16A. “The cost of living for a family of four is from $1,200 to $1,600 a month, according to officials at the U.S. Embassy.” Id.
204. Interview with Oscar Greiser, supra note 186.
205. Id.
206. Id.
“a sad look,” but the public is also deeply concerned about more pressing economic issues.209 Discussions with educators in Buenos Aires often turn to the tax on automobiles that was instituted to fund salary increases for the teachers, with many noting the unpopularity of the tax.210 Even the minister of the economy, Roque Fernández, has recognized problems in the implementation and collection of this tax.211 He admitted that it would be impossible to anticipate how much will be collected from the automobile tax, although he hopes to arrive at the 700 million pesos necessary to authorize a raise of 100 pesos in the salaries of the teachers.212

Another tax initiative on transport ticket sales met with such a firestorm that the government delayed its implementation.213 The tax was designed to fund teachers’ salaries, but it met with strong protest from the transportation sector, which had been hit with a thirty percent rise in gasoline prices.214 Freight truckers planned a lockout of Buenos Aires, but canceled it after the government responded.215

209. Interview with Dr. Pablo Varela, supra note 187.
211. Fernández dice que es “imposible” saber el monto que se recaudará, LA NACION LINE (Mar. 6, 1999), at http://www.lanacion.com.ar/99/06/03/e04.htm (on file with the Vanderbilt Journal of Transnational Law). Others are even less optimistic. Noted liberal economist James Buchanan, on a visit to Buenos Aires, could only shake his head and smile when consulted about the decision to impose a tax on automobiles to improve the salary of the teachers. La convertibilidad fiscal es necesaria para limitar las deudas, LA NACION LINE (June 6, 1999), at http://www.lanacion.com.ar/99/06/06/e12.htm (on file with the Vanderbilt Journal of Transnational Law). “Really, I consider it a surprising decision,” said Buchanan, who has dedicated himself to academic investigation in the U.S. Id. He questioned this, he said, because:

[T]here are few things more irritating and unpopular for a taxpayer than this type of tax. It surprises me that they have decided to do this in an election year. It’s a very sensitive tax for the people. The curious thing is that generally taxpayers are apathetic with respect to the money the government takes. This is something which I have written a lot about in my books. In periods of economic growth, while the people are able to bring some money home, they don’t seem to bother themselves too much about what is taken away from them. Nevertheless, with their automobiles, they’re not indifferent. . . . And surely Argentina is not exactly in a period of economic expansion, so the irritation is multiplied.

Id.

214. Id.
215. Id.
In May 1999 education funding problems caused a national crisis. To meet International Monetary Fund targets for Argentina's nearly $5 billion deficit, President Menem cut $280 million in federal aid to universities and schools.\textsuperscript{216} Susana Decibe, Minister of Culture and Education, resigned in protest; thousands of university students demonstrated (blocking major avenues in Buenos Aires); and a national school strike shut down the public education system.\textsuperscript{217} President Menem partially reversed the cuts in light of the protest, and both houses of the Argentine Congress voted overwhelmingly to restore the money, some members criticizing Menem for making the cuts by emergency decree, rather than presenting them to Congress for debate.\textsuperscript{218}

In addition to teacher salaries, teacher training has also been a significant issue in the wake of the education reform legislation. The Ministry of Culture and Education has sought to implement the increased teacher training requirement of Ley Federal by setting up Education Centers for teachers throughout the provinces.\textsuperscript{219} Universities present the provinces with bids that the provinces review and accept.\textsuperscript{220} The universities then send instructors out to teach the teachers.\textsuperscript{221} The teachers take supplementary courses at these Education Centers in the subject matters they teach, in addition to courses in new teaching methodologies.\textsuperscript{222} By 1999 about half the teachers in the country had taken at least one new training course.\textsuperscript{223} Officials in the Ministry were critical of teacher commitment to the new law, however, claiming that many teachers were unmotivated and unwilling to deal with any change imposed upon them.\textsuperscript{224} Professors in the Continuing Education Institute also stated there was "much resistance" to the new training programs.\textsuperscript{225}

My interviews at the Education Ministry gave me a perspective beyond that of law and education. First, unlike the United States, there are no metal detectors in this government building. My guide and interpreter told me that she despised government buildings, viewing them as places where the government brought people to torture them in the bad times. My guide was keenly aware that the officials in the

\begin{itemize}
  \item 217. \textit{Id.}
  \item 218. \textit{Id.}
  \item 219. Interview with Liá Lopez, Formación Docente, Argentina National Ministry of Culture and Education, in Buenos Aires, Argentina (May 23, 1999).
  \item 220. Interview with Oscar Greiser, \textit{supra} note 186.
  \item 221. \textit{Id.}
  \item 222. Interview with Mariá Cristina Hisse, \textit{supra} note 196; Interview with Oscar Greiser, \textit{supra} note 186.
  \item 223. Interview with Mariá Cristina Hisse, \textit{supra} note 196.
  \item 224. Interview with Liá Lopez, \textit{supra} note 219.
  \item 225. Interview with Oscar Greiser, \textit{supra} note 186.
\end{itemize}
Ministry are part of the Perónist Menem administration, even though the City of Buenos Aires was not Perónist. "[O]ne must always keep in mind that everything here is political," she cautioned.226

B. Special Education

Section 28 of the Federal Law of Education explicitly guarantees special education to every person who needs it from the moment that this need is diagnosed,227 but the abstract statements that take up one page in Ley Federal are a far cry from the complex substantive and procedural rights found in federal law in the United States in the Individuals With Disabilities Education Act (IDEA).228

Although the vague language of Ley Federal does not even come close to the substantive and procedural protection provided to disabled students under IDEA, the Ministry of Culture and Education has set forth more specific goals for special education. In its publication, Zona Educativa, the Ministry explains that the central objective of the education transformation in the special education realm is "one school for all."229 One strategy is to abandon the traditional categories of disabilities that tended to classify students by disability (deafness, blindness, personality disorders, mental retardation, motor skill problems). The Ministry explained that because these categories emphasize the students' deficiencies, they constitute discriminatory labels and a fixed diagnosis that does not leave room for change or improvement.230 The use of new categories with a pedagogical focus attempts to put the emphasis on evaluating the relationship between the individual and his educational environment in order to establish the student's particular needs in a strictly educational sphere.231 As was the case historically in the United States—until IDEA prompted the mainstreaming movement, which placed disabled students in the general education classroom for part of the day,232—special education in Argentina has generally encompassed a parallel system of education. Students in need of special education attend separate schools—including schools for the blind, the deaf, the mentally disabled, and the physically disabled—with separate administrations, teacher training, and

226 See infra text accompanying note 249.
228. For a description of the relevant provisions of the Individuals With Disabilities Education Act (IDEA), see Anne P. Dupre, Disability, Deference, and the Integrity of the Academic Enterprise, 32 GA. L. REV. 393, 419-26 (1998).
230. Id.
231. Id.
Some school districts have no option but to put all disabled students in one school. The Ministry of Culture and Education has stated that the Federal Law of Education makes integration of special education students into the regular classroom a part of the educational reform process. Actually, Ley Federal mentions integration briefly—twice in Section 29, one of the three short sections on Special Education, and in Article 5 on Educational Policy. Section 29 states that students will be assessed regularly to facilitate their incorporation into common school units. Article 5 states that the national state will set down guidelines for the integration of students with special needs through the full development of their abilities. With no more specific requirement than these, the Ministry nonetheless maintains that schools must strive to pay attention to diversity and to individual differences.

In the United States “full inclusion” has replaced mainstreaming as the new goal of many disability advocates. Full inclusion, which is highly controversial in the United States, means that all disabled students, no matter how severe the disability, must be placed in the regular classroom. Argentina is certainly a long way from full inclusion, and its commitment to integrating the disabled into regular schools and classrooms remains largely unfulfilled. For example, when asked about the integration of special education students at one elementary school, a teacher proudly stated that the school was integrated. Further observation as to how this was being accomplished revealed that one blind girl attended the school.

Some educators believe that public attitudes are beginning to change as the subject of special education becomes more familiar and


235. Id.


237. Id. tit. II, art. I, § 5(k).


239. Supra note 165, at 779-80, 791-93.

240. Id. For a critique of the full inclusion movement, see id. at 817-57.

241. Interview with Noemí Carchio de Moglia, Teacher at Colegio Sagrado Corazón, in Buenos Aires, Argentina (May 27, 1999).

242. Interview with Dr. Pablo Varela, supra note 187; Telephone Interview by Dana Lennox with Raúl O. García, President of Mennonite Church of Argentina and a public high school principal for thirty years (July 28, 1999) (notes of interview on file with author).
the government is actively encouraging work assistantships for young disabled people between the ages of twenty and thirty through the establishment of a Printing Center within the Ministry of Culture and Education.243 One educator explained, "We have no law to integrate, but now more people have good intentions."244

C. Curriculum Issues

1. The New National Curriculum

Carrying out the reforms in the new curriculum of Initial Education, Basic General Education, and Polymodal Education245 at a national level has been a difficult task. None of the provinces started to implement the new curriculum program at the same time.246 In 1999 the City of Buenos Aires had completed only the Initial Education (ages three to five) portion of the new program, while private schools in the city had completed all three cycles of the General Basic Education (ages six through fourteen) portion.247 Indeed, at least one private Catholic school had already started implementing the Polymodal (ages fifteen through seventeen) program.248

According to one educator, the City of Buenos Aires was slow to implement the program because the city was ruled by the opposition party, which disagreed with some of the principles of the law and of the Menem administration.249 This reluctance may not be particularly surprising, however, in as much as Buenos Aires has dealt with fifteen different curriculum reforms in twenty years.250 While many provinces were hoping to complete the third cycle of the General Basic Education by the end of 1999, other provinces, like the province of Cordoba, “were not implementing the law as they should,” and lagged behind.251


244. Interview with Lic. Silvia Baeza, de la Cátedra de Ley de Educación Federal USAL (Universidad del Salvador), Buenos Aires, in Buenos Aires, Argentina (May 28, 1999).

245. See supra notes 161-62 and accompanying text.

246. Interview with Dr. Pablo Varela, supra note 187.

247. Id.

248. Interview with Noemí Carchio de Moglia, supra note 241.

249. Interview with Oscar Greiser, supra note 186. See also supra text accompanying note 226 ("[E]verything here is political.").

250. Interview with Oscar Greiser, supra note 186.

251. Interview with Dr. Pablo Varela, supra note 187; Interview with Mariá Cristina Hisse, supra note 196 (noting that it was still a challenge to implement the third cycle in cities, low income suburbs, and rural areas).
2. Diversity Issues

Perhaps one of the more interesting consequences of Ley Federal might be termed "Yoder on the Pampas." The requirements of the new law started a controversy regarding government treatment of a colony of Mennonites in Guatrache, La Pampa (a rural area in southern Argentina), who tried to keep their traditional system of education rather than conform to the new government system.\textsuperscript{252} As illustrated below, this conflict resonates powerfully with the issues addressed by the U.S. Supreme Court in the landmark case, Wisconsin v. Yoder.\textsuperscript{253}

Mennonites are a Christian group with their roots in the Anabaptist movement of the Protestant Reformation. The Anabaptists, or "rebaptizers," did not practice infant baptism, believing instead that Christians should be baptized only after making an adult confession of faith.\textsuperscript{254} The term "Mennonite" became a nickname for the followers of Menno Simons, a former Catholic priest who joined the Anabaptist movement in 1536.\textsuperscript{255}

Although there are 2500 Mennonites living throughout Argentina who are integrated with the rest of Argentine society, the education controversy is rooted in a more conservative Mennonite colony, located in the rural zone of Guatrache, some 200 kilometers south of the Pampan capital.\textsuperscript{256} It is made up of some 1200 persons who make their...

\textsuperscript{252} Los chicos menonitas tendrán que ir al colegio, \textit{La Nación} Line (Dec. 17, 1997), at \url{http://www.lanacion.com.ar/97/12/17/g17.htm} (on file with the Vanderbilt Journal of Transnational Law).

\textsuperscript{253} 406 U.S. 205 (1972).


\textsuperscript{255} Merle Good & Phyllis Good, \textit{20 Most Asked Questions About the Amish and Mennonites} 13 (1995). It is difficult to define a specific Mennonite theology. Among the important tenets of the Mennonite faith, though, are a church made only of believers; the rejection of infant baptism; the rejection of the doctrine of the efficacy of the Sacraments; an emphasis on a holy life characterized by separation from the state and pacifism; an emphasis on mutuality and equality; and taking seriously Jesus' Sermon on the Mount, particularly its teachings regarding humility, nonresistance, and favor to the poor. Calvin Redekop, \textit{Mennonite Society} 52-53 (1989); Shimron, \textit{supra} note 254, at F1.

Mennonites are sometimes confused with the Amish, another Protestant group which grew out of the Anabaptist movement. The Amish are most well-known for their emphasis on extreme simplicity and a rural way of life separated from the larger society. There is little doctrinal difference between the Amish and Mennonites; most differences are of practice rather than belief. Good & Good, \textit{supra}, at 7-8. Though Old Order Mennonites lead a lifestyle similar to the separate, simple existence for which the Amish are known, many Mennonite groups live and work within the mainstream culture. \textit{Id.} at 9.

\textsuperscript{256} Flavio Frangolini, \textit{El gobierno pampeano acordó con los menonitas}, \textit{La Nación} ONLINE (Oct. 9, 1998), at \url{http://www.lanacion.com.ar/98/10/09/g15.htm} (on file with the Vanderbilt Journal of Transnational Law); Ramiro Pellet Lastra, \textit{Algunos piensan en la posibilidad de emigrar a Bolivia o a Paraguay}, \textit{La Nación} Line (June 14, 1998), at...
living farming, raising stock, and operating carpentry shops and other small businesses. Most members speak a German dialect and are very strict in their way of living, with no radio, television, or electricity. Members limit their contact with outsiders as much as possible, except for commercial relationships. Education consists of instructions in reading the Bible in their German dialect (a dialect that has died out in Germany) and an introduction to mathematics focused on arithmetic.

In December 1997 the Federal Council of Education passed a resolution that required the Mennonites to abandon their traditional system of education and send their children either to a school that would be located in the community or one located in the region. The document explained that although religion and culture must be respected under the Argentine constitution, the Mennonites nonetheless must comply with the compulsory schooling established by the constitution and under law to guarantee equality of opportunity for all. Susana Decibe, who was then Education Minister, stated that the council declaration was necessary to stop the Mennonite community from discriminating against its children by not permitting them to receive the same education as all other children in Argentina. The head of the National Institute Against Discrimination (a part of the Ministry of the Interior) warned that the Mennonites were depriving their children of the opportunity to choose their cultural life. But the director of the Center for Denunciation of Discrimination (a non-governmental group) cautioned against assuming that one social model is the best and pointed out that if "discrimination" means the inability to accept difference, then the council's declaration to the Mennonites was discriminatory.

Mennonite leaders protested, and they warned that if the government authorities started building schools in their colony, the Mennonites would leave Argentina for countries like Bolivia and

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257. Id. 258. Telephone Interview by Dana Lennox with Raúl O. García, supra note 242; Ramiro Pellet Lastra, Acososados, los menonitas optaron por el silencio, LA NACION LINE (June 13, 1998), at http://www.lanacion.com.ar/98/06/13/g09.htm (on file with the Vanderbilt Journal of Transnational Law).


262. Id. 263. Id. 264. Id. (quoting Victor Ramos). 265. Id. (quoting Daniel Barberis).
Paraguay, which they perceived as being more tolerant.\textsuperscript{266} Education leaders and Mennonite leaders discussed various alternatives, including having government-designated teachers go to the colony to teach Spanish, social and natural science, mathematics, history, and geography, using the church for a school.\textsuperscript{267} When a Mennonite bishop claimed that he had mistakenly signed a note that obligated payment of over $300,000, one official of the Ministry of Education in the province stated that if the Mennonites had understood the writing, the scam could not have taken place.\textsuperscript{268} The press—while noting that Mennonites do not speak much Spanish and do not know the provincial governor or even the most famous soccer players—was nonetheless sympathetic, calling on others to study the honorable nature of the Mennonites.\textsuperscript{269}

There are about 200,000 Mennonites and about 122,000 Amish who live in the United States,\textsuperscript{270} and they too have clashed with government authorities about schooling for their children. The most famous case is \textit{Wisconsin v. Yoder}, where, similar to the Mennonites in Argentina, Amish parents rebelled against a state’s compulsory schooling laws.\textsuperscript{271} In \textit{Yoder}, the state government of Wisconsin sought to enforce the compulsory school attendance laws, but the U.S. Supreme Court decided that the Amish would be allowed to withdraw their children from public education after eight years of schooling.\textsuperscript{272}

When the plight of the Mennonites in Argentina caught the attention of the Argentine press, comparison to the \textit{Yoder} case was inevitable.\textsuperscript{273} Some writers called for Argentina to be more flexible than the state of Wisconsin had been, and the Mennonites appeared to have
popular support in their province. After months of negotiation, the provincial Minister of Education and the leader of the Mennonite community reached an agreement whereby the children of the colony of Guatrache will learn Spanish, reading, and writing in their homes and will be evaluated by provincial teachers. Implementing this compromise will involve teaching Spanish to adult family members so they can teach the children.

D. School Discipline

Although the escalating problems with violence and school discipline were not mentioned in Ley Federal or in the documents from the Ministry of Culture and Education, educators in Buenos Aires revealed a growing concern about escalating problems with violence and school discipline, problems that have certainly plagued schools in the United States in recent years. One educator pointed out that schools in Buenos Aires had addressed problems with armed gangs of students, and that drug use among students was increasing, both of which are problems "that were not even thought about in Argentina ten years ago." Some schools are considering installing metal detectors, although the perception is that other schools try to hide that they have a problem. Although parents are generally supportive of schools that discipline students, some educators believe that more resources for counselors and teacher training would help to stop the problems from escalating.

276. Telephone Interview by Dana Lennox with Raúl O. García, supra note 242.
277. Interview with Dr. Pablo Varela, supra note 187; Interview with Lic. Nora Segovia, de la Cátedra de Ley de Educación Federal USAL (Universidad del Salvador), Buenos Aires, in Buenos Aires, Argentina (May 28, 1999).
278. Interview with Dr. Pablo Varela, supra note 187. At the Catholic private school that I visited, teachers claimed that severe discipline problems had not surfaced there, although the school had its first problem with drug use the year before when two students were caught smoking marijuana on a class trip. Interview with Noemí Carchio de Moglia, supra note 241. The school suspended one student for about a month and required the parents to certify that the students and family had received professional counseling. Id.
279. Interview with Lic. Nora Segovia, supra note 277.
280. Id.
V. POLITICS, THE ECONOMY, AND THE FUTURE OF EDUCATION REFORM

Although former President Menem caused a commotion when he hinted that he might try to run for president again—despite a constitutional prohibition against it—he backed down, and Argentina's October 1999 election resulted in the orderly passage of power to President Fernando de la Rúa. This election was an important sign that democracy now has staying power in Argentina, where no popularly elected president had transferred power to another popularly elected president from 1930 to 1989. President de la Rúa's presidential term has been far from orderly, however.

Severe economic problems have exacerbated Argentina's chronic social tensions. Some of Argentina's most current problems are external, such as the higher U.S. interest rates that have slowed investment in emerging markets and added instability to international markets. Internal difficulties include a slowing industrial production rate, low consumer confidence, and lower-than-expected revenues from tax increases. In addition, Argentina is committed to cutting its huge fiscal deficit from $7.1 billion to $4.2 billion under its standby loan agreement with the International Monetary Fund, but the poor revenue figures have forced spending cuts in order to meet the deficit targets.

To put it mildly, the Argentines have not reacted well to the spending cuts. In January 2000 the government announced spending cuts of $1.4 billion in addition to a tax hike of between eight and twenty-two percent, the steepest tax hike in over a decade. Later in the year, the Argentine government announced cuts in public sector salaries and pensions, as well as the shutdown of some government offices. These taxing and spending cuts have caused an uproar in Argentina, and thousands of workers have rallied to protest the International Monetary Fund and government economic programs. One union leader called

282. Orderly Transition in Argentina, supra note 63, at B8.
284. Id. See also Marcela Valente, Economy-Argentina: Gov't Cuts Wages to Meet IMF Commitments, INTER PRESS SERVICE, May 29, 2000, 2000 WL 4091387 (noting that tax increases have resulted in a disappointing revenue increase).
287. Valente, supra note 284.
for citizens to engage in "fiscal disobedience"—not to pay taxes, a proposal government officials called "pro-coup," and national general strikes have deeply shaken the country. Even the Catholic church has denounced the austerity programs and supported the protests.

Double-digit unemployment adds to Argentina’s woes and polls show that unemployment is the principal concern of the Argentine public. In 1993 around the same time that Ley Federal was passed, tens of thousands of workers lost jobs after Argentina’s large industries were privatized. When the spending cuts affected a government subsidy plan for unemployed workers, protests turned violent, complete with arson, looting, and other property damage.

The economic minister has called the measures imposed by the de la Rúa administration a “reassignment” of resources, stating that some of the savings would be earmarked for social programs like health and education. But education budgets cannot help but feel the strain. Thus, Argentina is finding it difficult to address social issues, like education reform, without “taking the bitter medicine of strict fiscal adjustments,” including tax increases and government spending cuts.

What does all this mean for the future of education reform in Argentina? After all, education "thrives on stability." Both economic and political instability have plagued Argentina, as “[d]emocracy has never come easily for Argentines . . . ." Despite the recent election,
"[t]he legacy from the years under military rule is daunting." The threat of a coup is always present. Argentines remember only too well the failed military insurrections of April 1987, January 1988, December 1988, and December 1990, in addition to the urban food riots that forced President Alfonsín to curtail his presidency.

In 1983 Argentina needed to rediscover how democratic government worked, and it is still deep in the throes of that process. The process of education transformation has proved more difficult and has taken longer than many Argentines envisioned. One educator has likened it to a reconversion in the religious sense, and another has observed that some of the changes may have been abrupt for teachers and students.

Despite all its current difficulties, President de la Rúa's administration still appears to be committed to important structural reforms in education. U.S. Embassy official Robert Hagen stated that it is "a sore point" with Argentines that the country is behind on the education front, an observation that indicates that reform may once again take a front seat after the current economic problems have been addressed.

The de la Rúa administration has also signaled another change in the political climate. President de la Rúa has stated that Argentina has "a moral and social debt [that] we should start repaying today," and he has pledged an honest and transparent government with a "permanent fight against all forms of corruption" from the highest official to the lowest. As one educator stated, "Education in our country will truly be transformed when people are not in service of politicians."

Over the last fifty years the citizens of Argentina have careened though "kaleidoscopic changes of government, galloping inflation, and the gradual erosion of the rule of law," and they have fallen prey to cynicism and alienation. Perhaps it is surprising that a country that claims to care so much about education has allowed political

303. WYNIA, supra note 126, at 164.
304. Interview with Oscar Greiser, supra note 186.
305. Telephone Interview by Dana Lennox with Raúl O. García, supra note 242.
307. Marrison, supra note 22, at 16A.
308. Telephone Interview by Dana Lennox with Raúl O. García, supra note 242.
310. Id.
311. Interview with Oscar Greiser, supra note 186. Professor Greiser observed, "President Alphonsín oversaw the renewal of democracy, Menem oversaw privatization, the next president must oversee a return to ethics and a real stand against corruption." Id.
312. Tulchin & Garland, supra note 135, at xi.
upheaval and repression to leach so much of its spirit. "Perhaps most surprising of all, however, is the way in which the belief in education, the desire for knowledge and a willingness to teach have survived the incredible political and economic vicissitudes of recent years." Dr. Varela told me that "there are times of politics, and there are times of classrooms." When Argentina is able once again to concentrate on education policy, Ley Federal has set up the foundation from which it can do so.

VI. CONCLUSION: THE LESSON

The Argentine model of education transformation—federal legislation passed by Congress requiring a national curriculum and increased teacher training—is not necessarily a model that would comport well with the system of federalism in the United States. Indeed, it has not yet reached its full promise in Argentina. Still, Argentina has the right idea in designing a new role for its national government with regard to education. The federal government can and should play an important role in education policy—as "a prompter of education," to encourage innovation that would increase the quality of education. Without question, the national government in the United States has the ability to set the tone for needed reform and renewal. The only question is whether the will exists to do so in a way that best serves the citizens of the nation.

It is easy to cry that a lofty goal has failed when it has not been met over time. Many have disparaged Goals 2000 as a colossal failure, because not one single goal in the legislation was achieved by the year 2000, and the goals are not likely to be met any time soon. For example, students in the United States seem to be light years away from the goal of being the first in the world in mathematics and science. Performance actually declined in two goal areas. These facts may be true, but some states have been making progress toward meeting some of the defined goals and are considering ways to make schools and

313. Caistor, supra note 28, at 191.
314. Interview with Dr. Pablo Varela, supra note 187.
315. UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, supra note 6, at 34.
316. It has done so in the past, not without controversy, regarding issues of racial discrimination and educational opportunity for disabled students. See supra note 2 and accompanying text.
318. See supra note 3.
319. Mollison, supra note 317, at A14 (noting that performance decline in (1) teacher education and professional development and (2) lifelong learning and adult literacy).
320. Aukofer, supra note 11, at 1 (reporting on findings of National Education Goals Panel, which noted that progress had been made in some areas but had stalled or
students accountable.\textsuperscript{321} For instance, two years after Goals 2000 was passed, only fourteen states had set standards for learning, but forty-nine states had done so by the year 2000.\textsuperscript{322}

Moreover, like Ley Federal, Goals 2000 was significant in a broader sense because it sowed the seeds for change. At the very least, Goals 2000 demonstrated a national, bipartisan consensus on some important goals for education reform, while it gave educators and families a rough baseline from which to measure progress.\textsuperscript{323} "Monitoring a long list of indicators has helped states and local school districts share information and rally around common concerns."\textsuperscript{324}

Despite the tone that has been set by Goals 2000, much more clearly needs to be done. "While the transformations have been substantial at the level of political rhetoric and policy, they have yet to work their way fully into the daily life of schools and local school systems in the same dramatic way."\textsuperscript{325} The goals of Goals 2000 have been fairly criticized as being too vague and unrealistic.\textsuperscript{326} "The bar was set so high, no one could complain when it wasn't met."\textsuperscript{327} For example, the call for the end of violence in schools without a plan to address how to do so in a society that daily entices children with graphic images of blood and beatings is surely doomed to fail at the outset.\textsuperscript{328} One can hardly imagine how schools, without help, can solve this deep sickness in our culture, or how schools will be able to address our nation's pernicious drug problem...
successfully inside the school house until a plan is developed to address this issue outside in society.\textsuperscript{329}

Setting such unrealistic goals and then blaming teachers and schools for not reaching them is a poor way to achieve true educational reform. Instead, focusing on certain key areas for correction would set the tenor for more directed programs. For example, ensuring that every single student—rather than every adult, as per the legislation—is literate is a more concrete and measurable goal than stating that all children will start school “ready to learn.” To be sure, achieving literacy is also a prerequisite to achieving the high goals set for math and science.\textsuperscript{330}

Both Congress and the President can do more to make education reform a higher priority, but this cannot be accomplished by passing yet another unfunded federal mandate. Instead, both branches should seek to lend additional financial support for states to develop programs that are most fitted to their own particular needs. “It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory, and try novel social and economic experiments without risk to the rest of the country.”\textsuperscript{331} Each state has its own unique problems in education, and those states that target these problems and make superior efforts to address them in a careful, systematic way should be rewarded. Moreover, members of Congress and the President can use the “bully pulpit” more effectively to motivate change by publicly praising successful state initiatives and urging other states to try them.\textsuperscript{332} For example, financial incentives to build small, nurturing schools and to develop programs to attract, train, and keep teachers would help states and local school districts provide better services to students.

An additional role for our national leaders is that of educator. They can help the public understand one of the most important lessons

\textsuperscript{329} For an analysis of the role courts play in the issue of school order, see generally Anne Proffitt Dupre, \textit{Should Students Have Constitutional Rights?: Keeping Order in the Public Schools}, 65 GEO. WASH. L. REV. 49 (1996) (describing how the Supreme Court's conception of the public school has greatly affected the power that public schools have been afforded in matters of discipline).


\textsuperscript{331} New State Ice Co. v. Liebmann, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting). \textit{See also} Minow, \textit{supra} note 5, at 285 (setting forth recommendations for school reform that balance the current law with respect for innovation and experimentation).

\textsuperscript{332} Governors Seek to Reinforce Education Goals Set a Decade Ago, \textit{supra} note 9, at A9 (noting the suggestion of Senator Jeffords, the Chairman of the Senate Health, Education, Labor and Pensions Committee, that educators replicate the programs that work and discard the failing ones). That is not to say that the state should latch on to every fad proposed by educational researchers. Silber, \textit{supra} note 330, at 27 (disparaging “mindless” educational fads like the “whole language” reading model, “fuzzy math,” and “the use of calculators before children have mastered computational skills”).
learned from Argentina—the failure to reach an important goal by a target date does not mean that the goal itself has no value. Sometimes the medicine needed for a cure can be bitter.333 Meaningful transformation is a long, hard, and sometimes painful process. Real progress is made over time, with many bumps and detours along the way.334

President Theodore Roosevelt is quoted as saying, “In any moment of decision, the best thing you can do is the right thing, the next best is the wrong thing, and the worst thing you can do is nothing.”335 The Republic of Argentina, despite the residual effects of years of chaotic political upheaval, and despite being bedeviled by seemingly insurmountable economic problems, is attempting to address its problems in education at both the national and provincial levels. At least the national government in Argentina has done something. As Dr. Varela has stated, “Perhaps for us it is the enduring spirit of this law, rather than its letter, that really matters.”336

That enduring spirit has been lacking in any national design for serious education reform in the United States. The harsh political and economic climate in Argentina has hampered its commendable efforts toward sustained progress in education reform. In light of the stable political climate in the United States and the unprecedented economic growth and record low unemployment that have been achieved in the United States during the last decade, the meager progress and sporadic national leadership on this significant issue are especially vexing. To be sure, when comparing the education systems of the United States and Argentina, there is much for which the U.S. system may be commended. The lesson from Argentina, however, does not necessarily lie in the substance of its reform package but in the persistence of its reform effort.

333. Education Goals 2000: Most Unmet, But Still Worthwhile, supra note 320, at 8A.
334. Cf. Minow, supra note 5, at 259 (noting numerous school reform fads that have been tried and abandoned).
335. Robert Carey, From the Barracks to the Boardroom, SALES & MARKETING MGMT., Mar. 1996, at 28, 31 (quoting maxims that are used to instill leadership in business and the military). Georgia Governor Roy Barnes used this quote in a recent speech in defending his own program of education reforms. Governor Roy Barnes, Speech at the University of Georgia (Mar. 31, 2000); Doug Cumming, Lighthearted Barnes Delivers Serious School Message, ATLANTA J.-CONST., Apr. 1, 2000, at 8H.
336. Interview with Dr. Pablo Varela, supra note 187.