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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

1. MINISTERIO DE CULTURA Y EDUCACIÓN DE LA NACIÓN ARGENTINA, FORTALECIMIENTO DE LA FUNCION DEL PERSONAL DOCENTE EN UN MUNDO CAMBIANTE, *in* FORTY-FIFTH MEETING OF THE INTERNATIONAL CONFERENCE OF EDUCATION, GENEVA 10 (Sept. 30–Oct. 5, 1996) (statement of Susana Decibe, Former Minister of Culture and Education in the Republic of Argentina) (on file with author).

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.² Yet serious, seemingly intractable, problems still plague schools in the United States.³ Political candidates from both major parties cite education reform as a top priority.⁴ If presented with an inspired design, the United States appears to be ripe for a profound transformation.⁵

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

2. *E.g.*, Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400-1487 (1994); Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688 (1994); *Brown v. Board of Educ.*, 347 U.S. 483 (1954).

3. In international examinations given in 1999 U.S. students finished nineteenth out of twenty-one nations in general math, sixteenth out of twenty-one in general science, fifteenth out of sixteen in advanced math, and dead last in physics. *Education Reform Flunks*, WASH. TIMES, Dec. 18, 1999, at A11. *See also* Ann L. Kim, *Schools Report Rise in Drug Crime, Violence*, L.A. TIMES, Mar. 1, 2000, at A3 (reporting an increase in violent crime as well as drug and alcohol offenses in California's public schools); Kenneth Lovett, *Immigrants Dropping Out of School at Alarming Rate*, N.Y. POST, June 2, 2000, at 24, 2000 WL 19656299 (citing figures from New York).

4. *E.g.*, Ronald Brownstein, *Whether Bush or Gore, President Will Be a Player in School Reform*, L.A. TIMES, May 15, 2000, at A5.

5. *See generally* Martha Minow, *Reforming School Reform*, 68 FORDHAM L. REV. 257 (1999).

have placed on each nation to provide a well-trained and educated work force.⁶ Only five countries in the Americas have lengthy experience with federal systems of government: Argentina, Brazil, Canada, Mexico, and the United States.⁷ 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.⁸

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.⁹ 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.¹⁰ Not a single one of the legislation's eight goals was

6. See generally UNITED NATIONS, ECONOMIC AND SOCIAL COUNCIL, TWENTY-NINTH SESSION OF THE GENERAL CONFERENCE, LA EDUCACIÓN ARGENTINA EN LA SOCIEDAD DEL CONOCIMIENTO 18 (OCT. 21-Nov. 12, 1997) (stressing the importance of education reform in Argentina); Steven E. Hendrix, *Advancing Toward Privatization, Education Reform, Popular Participation, and Decentralization: Bolivia's Innovation in Legal and Economic Reform, 1993-1997*, 14 ARIZ. J. INT'L & COMP. L. 679 (1997); *Brazil Tackles Its Skewed School System: Action Is Being Taken on a Problem Slowing a Nation's Ability to Compete*, FIN. TIMES (London), Jan. 29, 1998, at 3; *Experts Call for Education and Training Reform at the Second National Forum on Prior Learning Assessment and Recognition*, CANADA NEWSWIRE, Oct. 6, 1997 (discussing the need for reform of the Canadian educational system); Michael Fulton, *Education Reform, Are We On The Right Track?*, EDUCATION CANADA 4-7 (1998) (discussing the need for reform of the Canadian educational system).

7. Keith S. Rosenn, *Federalism in the Americas in Comparative Perspective*, 26 U. MIAMI INTER-AM. L. REV. 1, 3 (1994).

8. E.g., Cecilia Braslavsky, *Restructuring the Argentine Educational System, 1984-1995*, in ARGENTINA: THE CHALLENGES OF MODERNIZATION 297, 301 (Joseph S. Tulchin & Allison M. Garland eds., 1998); Kelly C. Rozmus, *Education Reform and Education Quality: Is Reconstitution the Answer?*, 1988 B.Y.U. EDUC. & L.J. 103, 112 n.33 (1998) ("Adopting educational standards has become a national endeavor.").

9. 20 U.S.C. §§ 5801-6084 (1994), amended by Education Flexibility Partnership Act of 1999, Apr. 29, 1999, Pub. L. No. 106-25, 113 Stat. 41 (1999) (allowing eligible state educational agencies the flexibility to waive certain federal requirements, along with related state requirements, that impede implementation of state and local educational improvement plans or unnecessarily burden program administration). The genesis of Goals 2000 began in 1989 when President George Bush met with governors and business leaders to set broad education goals for the year 2000. President Bill Clinton signed Goals 2000 into law in 1994. *Governors Seek to Reinforce Education Goals Set a Decade Ago*, NEWS & OBSERVER (Raleigh, N.C.), Sept. 30, 1999, at A9, 1999 WL 2770727.

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.¹¹ 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.¹²

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,¹³ the Federal Law of Education,¹⁴ and the Law of Higher Education.¹⁵

This Article will focus on the Federal Law of Education, *La Ley Federal de Educación*, or what the Argentines call "Ley Federal."¹⁶ 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.¹⁷ 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.¹⁸ 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).

12. Elaine Woo, *Education Summit Draws Governors*, L.A. TIMES, Mar. 26, 1996, at A15 (noting that President Clinton's Goals 2000 faced sharp attacks as an unnecessary federal influence on a local issue). See also *infra* notes 317-19 and accompanying text (discussing criticisms of Goals 2000).

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

14. *Sistema Educativo Nacional*, Law No. 24195, May 5, 1993, available at <http://www.ort.edu.ar/normas/leyfed/ley24195.html> (last visited Jan. 16, 2001) (stating the basic outline for the transformation of education at primary and secondary levels).

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.

18. *Id.* tit. I, §§ 1-2.

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.”¹⁹ 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.²⁰ Described in greater detail below,²¹ Ley Federal increased the years of compulsory education from seven years to ten years, changed the curriculum, and changed the method of school funding.²² In addition, Ley Federal set forth the rights of students²³ and the rights *and* obligations of parents.²⁴ Ley Federal also established the right of teachers to academic freedom and to advance in their profession based on their own merits.²⁵

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.²⁶ Distrust of government intervention in this nation that has been a democracy only since 1983 fosters cynicism about the efficacy of the new programs.²⁷ 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.²⁸

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

19. Braslavsky, *supra* note 8, at 305.

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.

22. Benjamin Marrison, *In Argentina, School Funding Is Also at Center of Debate*, PLAIN DEALER (Cleveland), Mar. 6, 1998, at 16A, 1998 WL 4123856.

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.

28. Nick Caistor, *Argentina: Higher Education and Political Instability*, in EDUCATION IN LATIN AMERICA 183, 191 (Colin Brock & Hugh Lawlor, eds. 1985).

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,²⁹ 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,³⁰ and has the sixteenth largest economy,³¹ with a population of 36.1 million people (as compared with a U.S. population of more than 270 million).³² 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.³³ One-third of Argentina's population resides in Buenos Aires.³⁴ Argentina's history has been heavily influenced by an upper class mainly of European descent that emerged from the colonial period.³⁵ Approximately eighty-five percent of the current population is of European descent (primarily from Italy and Spain),³⁶ and approximately ninety percent of the population is Roman Catholic.³⁷

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.³⁸ These values from old Europe were transmitted to colonial Argentina and remained even after Argentina gained its independence in 1816.³⁹

The provinces of Argentina joined in a confederation under the Constitution of 1853.⁴⁰ Argentina's constitution is the second oldest in the Americas⁴¹ 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.⁴² 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.*

31. *Facts About Argentina*, TORONTO STAR, Oct. 25, 1999, 1999 WL 23999928.

32. *Id.*; U.S. CENSUS BUREAU, U.S. DEPT OF COMMERCE, *STATISTICAL ABSTRACT OF THE UNITED STATES* tbl. 3, at 8 (1999).

33. *Country Profile*, in ARGENTINA: A COUNTRY STUDY xix, xxi (James D. Rudolph ed., 3d ed. 1985).

34. ECONOMIST INTELLIGENCE UNIT, *COUNTRY FORECAST: ARGENTINA, FOURTH QUARTER 1999*, at 20 (1999).

35. SCOTT B. MACDONALD & GEORGES A. FAURIOL, *FAST FORWARD: LATIN AMERICA ON THE EDGE OF THE TWENTY-FIRST CENTURY* 60 (1999). The colonial period is generally viewed as lasting from 1500-1810. For a more detailed history of Argentina's political and economic development, see generally ARGENTINA: A COUNTRY STUDY, *supra* note 33; ECONOMIST INTELLIGENCE UNIT, *COUNTRY PROFILE: ARGENTINA (1999-2000)*.

36. ECONOMIST INTELLIGENCE UNIT, *supra* note 34, at 20.

37. *Religion*, ST. LOUIS POST-DISPATCH, Jan. 22, 2000, at 25, 2000 WL 3503583 (citing Matthew Bunson of *Our Sunday Visitor's Catholic Almanac*).

38. William C. Banks & Alejandro D. Carrió, *Presidential Systems in Stress: Emergency Powers in Argentina and the United States*, 15 MICH. J. INT'L L. 1, 7 (1993).

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.⁴³ Courts and constitutionalism, however, have traditionally been weaker in Argentina than in the United States.⁴⁴ 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.⁴⁵ Despite the fact that the Argentine Supreme Court has explicit authorization in the constitution to exercise judicial review,⁴⁶ neither Spain nor the early Argentine government left Argentina’s modern judges with the tradition of an independent judiciary.⁴⁷ “Thus, the inability of the modern Argentine judiciary to exercise its constitutional powers independent of strong-willed executives, civil or military, is not surprising.”⁴⁸

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.⁴⁹ 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.⁵⁰ 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.⁵¹ Generally, [the] mere threat of intervention suffices to

state religion and required that the president and vice president be Roman Catholic. LEONARD, *supra* note 30, at 18.

43. *Facts About Argentina*, *supra* note 31.

44. Banks & Carrió, *supra* note 38, at 27; Rosenn, *supra* note 7, at 21.

45. 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.*

47. Banks & Carrió, *supra* note 38, at 27.

48. *Id.*

49. Rosenn, *supra* note 7, at 44. 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.

50. Banks & Carrió, *supra* note 38, at 14. One source estimates that there had been more than 220 federal interventions by 1962. Rosenn, *supra* note 7, at 44. (citing JORGE I. GARCÍA, *EL FEDERALISMO ARGENTINO*, cited in HUMBERTO QUIROGA LAVIE, *DERECHO CONSTITUCIONAL LATINOAMERICANO* 391 (1991)).

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 1943, 1955, 1962, 1966, and 1976.⁵⁸ Argentina returned to democratic 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.

59. Julio C. Cueto-Rua, *Privatization in Argentina*, 1 SW. J. L. & TRADE AM. 63, 65 (1994).

60. De Riz, *supra* note 57, at 133.

61. *Id.*

62. Banks & Carrió, *supra* note 38, at 25.

63. *Orderly Transition in Argentina*, L.A. TIMES, Oct. 27, 1999, at B8.

64. *See infra* note 281 and accompanying text.

65. *Argentina Elects Reformist De La Rúa; Corrupt Peronist Rule Is Soundly Rejected*, SEATTLE POST-INTELLIGENCER, Oct. 25, 1999, at A2, 1992 WL 30559572; *Orderly 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.⁶⁶ 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.⁶⁷ Schools were a luxury, were usually religious, and were run by Roman Catholic clerics, as few town councils or families could afford state schools.⁶⁸ In general, few children attended school because most could not afford it.⁶⁹

The revolution for independence from Spain in 1810 took a toll on education.⁷⁰ Education in a particular province depended on the strength of its governor.⁷¹ Some towns could not spare any money for state schools, and schools disappeared entirely from some provinces.⁷² In the early 1820s, a government minister in the province of Buenos Aires, Bernardino Rivadavia, began some educational reforms, including providing schooling for girls.⁷³ 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.⁷⁴

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.⁷⁵ Due to the municipalities' lack of resources, education reached only a small minority of children.⁷⁶ 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,

66. ECONOMIST INTELLIGENCE UNIT, *supra* note 35, at 12. See also ARTHUR P. WHITAKER, ARGENTINA 38 (1964) (noting that Domingo Sarmiento and his predecessor, Bartolome Mitre, "gave Argentina the best public school system in Latin America").

67. See generally LEONARD, *supra* note 30, at 12; de Lima-Dantas, *supra* note 39, at 7-17 (discussing the colonial era).

68. LEONARD, *supra* note 30, at 12.

69. *Id.* at 13.

70. *Id.* at 14.

71. *Id.* at 17.

72. *Id.* at 14.

73. *Id.* at 15.

74. *Id.* at 15-16. These English private schools were used by the upper classes, thus downgrading the public schools. *Id.* at 16. Some provinces refused to recognize the religious toleration of the 1825 treaty, but despite efforts to decrease the influence of the English schools (two decrees in 1831 and 1844 requiring teachers to profess the Roman Catholic faith), the English schools survived. *Id.* at 16-17.

75. *Id.* at 18, 19.

76. *Id.* at 19.

headed by Domingo Faustino Sarmiento.⁷⁷ In 1865, the national government signed an agreement with eight provinces to give financial aid to the schools of each province.⁷⁸

In 1868 Sarmiento became the fourth president of the Republic of Argentina, and he served until 1874.⁷⁹ 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.⁸⁰ With his education minister, Nicolás Avellaneda (who succeeded Sarmiento as president), Sarmiento worked to educate all social classes.⁸¹ 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.⁸² 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.⁸³ 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.⁸⁴ He lobbied for an 1875 law establishing teacher training schools and recruited teachers to staff them from the United States.⁸⁵ In 1881 an executive decree created a National Council of Education to administer the national primary schools, and Sarmiento was named its superintendent.⁸⁶ 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.⁸⁷ 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.⁹⁸

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.⁹⁹ The university hierarchy, however, proved to be a stubborn foe.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.¹⁰¹ The University Reform of 1918 (La Reforma) resulted in a tripartite system of university governance by alumni, students, and professors.¹⁰² In practice, however, the autonomy of the universities operated fully only during the period between 1957 and 1966.¹⁰³ 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 1984.¹⁰⁴ By 1998, Argentina had thirty-three autonomous national universities that the national government financed and that center on research and undergraduate education.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.¹⁰⁶

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

98. LEONARD, *supra* note 30, at 106.

99. Greenup, *supra* note 83, at 147, 155.

100. *Id.* at 147.

101. Marcela Mollis, *The Paradox of the Autonomy of Argentine Universities: From Liberalism to Regulation*, in *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. *Id.* at 35; Mollis, *supra*, at 223.

102. LEONARD, *supra* note 30, at 35-37.

103. Juan Carlos Del Bello, *Notes on Structural Reform of the University System*, in *ARGENTINA: THE CHALLENGES OF MODERNIZATION*, *supra* note 8, at 315, 316.

104. *Id.* at 316-17. See also Marcela Mollis, *Argentina*, in *HIGHER EDUCATION IN LATIN AMERICA* 155, 159 (Lewis A. Tyler et al. eds. 1997).

105. Del Bello, *supra* note 103, at 316.

106. *Id.*

student reformists.¹⁰⁷ In 1947 the Perónist Congress passed Law 13,031 that ended university autonomy.¹⁰⁸ 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.¹⁰⁹ Students and faculty no longer participated in the governance of the university;¹¹⁰ 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.¹¹¹

Enrollment in institutions of higher education nonetheless soared between 1947 and 1954, growing 14.8% annually.¹¹² 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."¹¹³ Although enrollment growth fell after 1954, it continued to exceed the growth rate of the population.¹¹⁴ Admission standards were loosened to include vocational school graduates, and entrance exams were eliminated.¹¹⁵ Three of four high school graduates enrolled in some institution of higher education, and the teacher training colleges grew even faster than university enrollment.¹¹⁶

High enrollment resulted in high dropout rates and few graduates because "generous access diluted quality."¹¹⁷ 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

107. Mollis, *supra* note 104, at 157.

108. LEONARD, *supra* note 30, at 109-10.

109. Mollis, *supra* note 104, at 156-57.

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.

113. Mollis, *supra* note 104, at 157.

114. Balán, *supra* note 112, at 285.

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.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.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.¹²⁰

In 1960, private institutions (mostly Catholic) were authorized for the first time to grant diplomas and titles.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.'"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.¹²³

D. Chaos

After the 1966 coup, General Onganía and his successors, Generals Levingston and Lanusse, stayed in power without elections until 1973, when the military withdrew and allowed Perón to return.¹²⁴ University autonomy was revoked yet again, entry level restrictions were abolished, and teaching hours were spread further through the day and evening.¹²⁵ After Perón died in 1974¹²⁶ and was succeeded by his wife Isabel, internal strife among Perónist followers and deteriorating economic conditions gave the military the opening it needed.¹²⁷ In March 1976 General Jorge Rafael Videla seized power from the Perónists.¹²⁸ From 1976 until democracy was restored in 1983, Argentina had nine

118. *Id.*

119. *Id.* This is a common model in Latin America.

120. *Id.* In my observation while researching this Article in Buenos Aires, this continues to be true of both students and professors.

121. Mollis, *supra* note 104, at 157.

122. *Id.*

123. Balán, *supra* note 112, at 288.

124. Leslie Elliott Armijo, *Menem's Mania?: The Timing of Privatization in Argentina*, 1 SW. J. L. & TRADE AM. 1, 3 (1994); Caistor, *supra* note 28, at 185.

125. Caistor, *supra* note 28, at 185-86.

126. GARY W. WYNIA, ARGENTINA: ILLUSIONS AND REALITIES 59-63 (2d ed. 1992). Perón died of natural causes in 1974. *Id.* at 61.

127. LEONARD, *supra* note 30, at 276.

128. *Id.*

presidents and a half-dozen education ministers.¹²⁹ 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 . . .”¹³⁰

After the 1976 coup, military leaders identified universities and the educational system in general as “one of the main areas for attack.”¹³¹ 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.¹³² 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.¹³³ 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.”¹³⁴ 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.”¹³⁵

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.¹³⁶ These efforts resulted in furthering the gap between the relatively rich coastal provinces and the poorer interior provinces.¹³⁷ 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.”¹³⁸

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.

135. Joseph S. Tulchin & Allison M. Garland, *Introduction to ARGENTINA: THE CHALLENGES OF MODERNIZATION*, *supra* note 8, at ix, xi.

136. Caistor, *supra* note 28, at 188-89 (citing JUAN CARLOS TEDESCO ET AL., *EL PROYECTO EDUCATIVO AUTORITARIO: ARGENTINA 1976-1982*, at 93 (1983)). Government expenditure on culture and education as a percentage of total government expenditure dropped from 17.1 percent in 1970 to approximately ten percent in 1976-1978. Caistor, *supra* note 28, at 189.

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, Raul Alfonsín, ascended to power through the return to democratic national elections in October 1983 did meaningful educational reform become possible.¹³⁹

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.¹⁴⁰ 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.¹⁴¹ 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."¹⁴² 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.¹⁴³ 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.¹⁴⁴

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.

Id.

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.

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 promoter of education,” to encourage the innovation that would increase the

145. *Id.* at 305.

146. Balán, *supra* note 112, at 288; Caistor, *supra* note 28, at 190.

147. Balán, *supra* note 112, at 288-89.

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.¹⁵⁴ 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."¹⁵⁵ 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."¹⁵⁶ 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.¹⁵⁷

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.¹⁵⁸ Others, like securing the Nation's sovereignty and consolidating democracy, provide a revealing insight into Argentina's social and political character.¹⁵⁹ The list includes the following: (1) enhancing national identity with due regard for local, provincial and regional idiosyncracies, (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.¹⁶⁰

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. ARG. art. 14 ("de enseñar y aprender").

157. Law No. 24195, tit. I, § 1.

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.¹⁶¹ 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.¹⁶²

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,¹⁶³ 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.¹⁶⁴ 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,¹⁶⁵ Ley Federal states that teams of professionals will assess students at special centers or schools regularly to facilitate their incorporation to common school units.¹⁶⁶

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.¹⁶⁷ 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.¹⁶⁸

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

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.

163. Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400-1487 (1994); Rehabilitation Act of 1973 § 504, 29 U.S.C. § 794 (1998).

164. Law No. 24195, tit. III, art. 7, pt. A, § 28.

165. Anne Proffitt Dupre, *Disability and the Public Schools: The Case Against "Inclusion,"* 72 WASH. L. REV. 775, 791-94 (1997) (discussing the full inclusion movement in the United States).

166. Law No. 24195, tit. III, art. 7, pt. A, § 29.

167. *Id.* tit. III, art. 7, pt. B, § 30.

168. *Id.* tit. III, art. 7, pt. C.

provincial education policies.¹⁶⁹ 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.¹⁷⁰ 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.¹⁷¹

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.¹⁷² 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.¹⁷³

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.¹⁷⁴ 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.¹⁷⁵ 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.¹⁷⁶ 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.¹⁷⁷ 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").

173. Law No. 24195, tit. VII, art. 2, § 45.

174. *Id.* tit. X, art. I, § 53.

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.”¹⁷⁸

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.¹⁷⁹ At the same time, a new framework for teacher training and development was established.¹⁸⁰

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.¹⁸¹ 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.”¹⁸²

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.¹⁸³ 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[,]”¹⁸⁴ 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.”¹⁸⁵

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).

182. Daniel Schugurensky, *University Restructuring in Argentina: The Political Debate*, in *LATIN AMERICAN EDUCATION: COMPARATIVE PERSPECTIVES* 237, 255 (Carlos Alberto Torres & Adriana Puiggrós eds., 1997).

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.”¹⁹⁰ 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

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.*

anything.¹⁹³ A U.S. embassy official has stated that “[t]he system is in a state of crisis” because of underfunded schools and underpaid teachers.¹⁹⁴

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.¹⁹⁵

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.¹⁹⁶ Although the dropout rate in the United States is a problem, U.S. child labor laws and more stringent enforcement of compulsory schooling help to reduce dropouts at such an early age.

The Ministry of Education is attempting to address the rural dropout problem by giving students in the third cycle of General Basic Education a scholarship—cash to use for clothing, school supplies, or even the family’s electricity.¹⁹⁷ 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.¹⁹⁸

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

193. *Id.*

194. *Id.* (quoting Robert Hagen).

195. Dolores Etchevehere, *En Madrejones siguen sin escuelas*, LA NACION LINE (June 24, 1998), at <http://www.lanacion.com.ar/98/06/24/g06.htm> (on file with the Vanderbilt Journal of Transnational Law).

196. Interview with Mariá 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. *Id.* 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).

197. Interview with Mariá Cristina Hisse, *supra* note 196. For example, children work in the wool, wine, and sugar cane industries. *Id.*

198. Marcela Valente, *Economy-Argentina: Urgent Social Demands Weigh Upon New Chief*, INTER PRESS SERVICE, May 17, 2000, 2000 WL 4091230.

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).

200. Interview with Laura Delamer, Formación Docente, Argentina National Ministry of Culture and Education, in Buenos Aires, Argentina (May 23, 1999).

201. *Id.*

202. *La CTERA convocó a dos paros nacionales*, LA NACION LINE (June 20, 1998), at <http://www.lanacion.com.ar/98/06/20> (on file with the Vanderbilt Journal of Transnational Law).

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.*

207. *Argentine Teachers End Longtime Fight for Raises*, ORLANDO SENTINEL, Dec. 30, 1999, at A16, 1999 WL 26033180.

208. *Cronología: A quince meses de la Carpa*, CLARÍN DIGITAL, at <http://www.clarin.com.ar/diario/98-07-10/e-03102d.htm> (on file with the Vanderbilt Journal of Transnational Law).

“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.

210. *E.g., id.* See also *Argentina Shares Lower in Early Afternoon Trade on Vehicle Tax Reinstatement*, AFX NEWS, July 15, 1999, LEXIS, News Library, WIRES File (noting unpopularity of vehicle tax).

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.

212. *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). One peso equals one U.S. dollar.

213. *Argentina Delays Introduction of Teachers' Tax After Truckers' Threats*, AFX EUROPEAN FOCUS, Feb. 23, 2000, LEXIS, News Library, WIRES File.

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.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.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.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.²¹⁹ Universities present the provinces with bids that the provinces review and accept.²²⁰ The universities then send instructors out to teach the teachers.²²¹ The teachers take supplementary courses at these Education Centers in the subject matters they teach, in addition to courses in new teaching methodologies.²²² By 1999 about half the teachers in the country had taken at least one new training course.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.²²⁴ Professors in the Continuing Education Institute also stated there was "much resistance" to the new training programs.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

216. Clifford Krauss, *Argentine Congress Restores Big Cuts, \$280 Million Earmarked for Education*, SUN-SENTINEL (Ft. Lauderdale), May 14, 1999, at 16A, 1999 WL 2488363.

217. *Id.*

218. *Id.*

219. Interview with Liá Lopez, Formación Docente, Argentina National Ministry of Culture and Education, in Buenos Aires, Argentina (May 23, 1999).

220. Interview with Oscar Greiser, *supra* note 186.

221. *Id.*

222. Interview with Mariá Cristina Hisse, *supra* note 196; Interview with Oscar Greiser, *supra* note 186.

223. Interview with Mariá Cristina Hisse, *supra* note 196.

224. Interview with Liá Lopez, *supra* note 219.

225. Interview with Oscar Greiser, *supra* note 186.

Ministry are part of the Perónist Menem administration, even though the City of Buenos Aires was not Perónist. “[One] 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.

227. Law No. 24195, tit. III, art. VII, § 28.

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).

229. E.G.B. *En educación especial*, ZONA EDUCATIVA, June 1996, at 6, available at <http://www.zona.mcy.gov.ar/ZonaEducativa/Revista04/10-11.html> (on file with the Vanderbilt Journal of Transnational Law).

230. *Id.*

231. *Id.*

232. Dupre, *supra* note 165, at 791-92 (describing the development of mainstreaming).

curriculum.²³³ Some school districts have no option but to put all disabled students in one school.²³⁴

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.²³⁵ 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.²³⁶ 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.²³⁷ With no more specific requirement than these, the Ministry nonetheless maintains that schools must strive to pay attention to diversity and to individual differences.²³⁸

In the United States “full inclusion” has replaced mainstreaming as the new goal of many disability advocates.²³⁹ 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.²⁴⁰ 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.²⁴¹

Some educators believe that public attitudes are beginning to change as the subject of special education becomes more familiar,²⁴² and

233. *E.G.B. En educación especial, supra note 229, available at* <http://www.zona.mcy.gov.ar/ZonaEducativa/Revista04/10-11.html> “[S]tudents who are blind, deaf, mentally impaired, or who have mental disorders are primarily still found in special schools.” JUDY L. ELLIOTT ET AL., A PERSPECTIVE ON EDUCATION AND ASSESSMENT IN OTHER NATIONS: WHERE ARE STUDENTS WITH DISABILITIES? 13 (National Center on Educational Outcomes, University of Minnesota, Synthesis Report 19, 1995).

234. *E.G.B. En educación especial, supra note 229, available at* <http://www.zona.mcy.gov.ar/ZonaEducativa/Revista04/10-11.html>.

235. *Id.*

236. Law No. 24195, tit. III, art. VII, § 29.

237. *Id.* tit. II, art. I, § 5(k).

238. *E.G.B. En educación especial, supra note 229, available at* <http://www.zona.mcy.gov.ar/ZonaEducativa/Revista04/10-11.html>.

239. Dupre, *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

243. *Pasantías para chicos de escuelas de enseñanza especial*, ZONA EDUCATIVA, Feb. 1998, at 34-35, available at http://www.zona.mcy.gov.ar/ZonaEducativa/Revista20/Gradualidad_Datos.html (on file with the Vanderbilt Journal of Transnational Law).

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.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*.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.²⁵⁴ The term “Mennonite” became a nickname for the followers of Menno Simons, a former Catholic priest who joined the Anabaptist movement in 1536.²⁵⁵

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.²⁵⁶ It is made up of some 1200 persons who make their

252. *Los chicos menonitas tendrán que ir al colegio*, LA NACION LINE (Dec. 17, 1997), at <http://www.lanacion.com.ar/97/12/17/g17.htm> (on file with the Vanderbilt Journal of Transnational Law).

253. 406 U.S. 205 (1972).

254. Yonat Shimron, *Mennonites Among the Oldest of Protestant Denominations*, THE NEWS & OBSERVER (Raleigh, N.C.), Apr. 16, 1999, at F1.

255. MERLE GOOD & PHYLLIS GOOD, 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, MENNONITE SOCIETY 52-53 (1989); Shimron, *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, *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. *Id.* at 9.

256. Flavio Frangolini, *El gobierno pampeano acordó con los menonitas*, La Nación ONLINE (Oct. 9, 1998), at <http://www.lanacion.com.ar/98/10/09/g15.htm> (on file with the Vanderbilt Journal of Transnational Law); Ramiro Pellet Lastra, *Algunos piensan en la posibilidad de emigrar a Bolivia o a Paraguay*, La Nación LINE (June 14, 1998), at

living farming, raising stock, and operating carpentry shops and other small businesses.²⁵⁷ Most members speak a German dialect and are very strict in their way of living, with no radio, television, or electricity.²⁵⁸ Members limit their contact with outsiders as much as possible, except for commercial relationships.²⁵⁹ 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.²⁶⁰

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.²⁶¹ 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.²⁶² 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.²⁶³ 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.²⁶⁴ 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.²⁶⁵

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

<http://www.lanacion.com.ar/98/06/14/g14.htm> (on file with the Vanderbilt Journal of Transnational Law).

257. *Id.*

258. Telephone Interview by Dana Lennox with Raúl O. García, *supra* note 242; Ramiro Pellet Lastra, *Acosados, 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).

259. Telephone Interview by Dana Lennox with Raúl O. García, *supra* note 242.

260. Frangolini, *supra* note 256, at <http://www.lanacion.com.ar/98/10/09/g15.htm>; Lastra, *supra* note 258, at <http://www.lanacion.com.ar/98/06/13/g09.htm>.

261. *Los chicos menonitas tendrán que ir al colegio*, *supra* note 252, at <http://www.lanacion.com.ar/97/12/17/g17.htm>.

262. *Id.*

263. *Id.*

264. *Id.* (quoting Victor Ramos).

265. *Id.* (quoting Daniel Barberis).

Paraguay, which they perceived as being more tolerant.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.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.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.²⁶⁹

There are about 200,000 Mennonites and about 122,000 Amish who live in the United States,²⁷⁰ and they too have clashed with government authorities about schooling for their children. The most famous case is *Wisconsin v. Yoder*, where, similar to the Mennonites in Argentina, Amish parents rebelled against a state's compulsory schooling laws.²⁷¹ In *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.²⁷²

When the plight of the Mennonites in Argentina caught the attention of the Argentine press, comparison to the *Yoder* case was inevitable.²⁷³ Some writers called for Argentina to be more flexible than the state of Wisconsin had been, and the Mennonites appeared to have

266. *Algunos piensan en la posibilidad de emigrar a Bolivia o a Paraguay*, *supra* note 256, at <http://www.lanacion.com.ar/98/06/14/g14.htm>; Frangolini, *supra* note 256, at <http://www.lanacion.com.ar/98/10/09/g15.htm>.

267. *Id.*

268. Ramiro Pellet Lastra, *Colonos en apuros*, LA NACION LINE (Jan. 7, 1998), at <http://www.lanacion.com.ar/98/07/01/o03.htm> (on file with the Vanderbilt Journal of Transnational Law).

269. *Id.*

270. Brett Lieberman, *Amish Quietly Lobby Congress on Child Labor*, SUNDAY NEWS (Lancaster, Pa.), Aug. 2, 1998, at B6; Shimron, *supra* note 254, at F1.

271. 406 U.S. 205 (1972).

272. *Id.* at 218, 231. The Court was concerned that compulsory education could "undermin[e] the Amish community and [their] religious practices" and perhaps destroy the free exercise of their religious beliefs. *Id.* at 218.

273. Alberto Jorge Gowland Mitre, *Los menonitas y la obligación escolar*, LA NACION LINE (June 13, 1998), at <http://www.lanacion.com.ar/98/06/13/004.htm> (on file with the Vanderbilt Journal of Transnational Law). Of course, the facts in *Yoder* arose in 1968, and the Amish merely wished for their children to leave public school after the eighth grade. *State v. Yoder*, 49 Wis. 2d 430, 436 (Wis. 1971). With all 50 states now allowing some form of home schooling, the *Yoder* issue would be different if it arose today. See David J. Swift, *Bringing It All Back Home*, PLAIN DEALER (Cleveland), Mar. 15, 1998, at 12 (noting that each state has its own requirements and regulations for home schooling).

popular support in their province.²⁷⁴ 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.²⁷⁵ Implementing this compromise will involve teaching Spanish to adult family members so they can teach the children.²⁷⁶

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.²⁷⁷ 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."²⁷⁸ Some schools are considering installing metal detectors, although the perception is that other schools try to hide that they have a problem.²⁷⁹ 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.²⁸⁰

274. Gabriela Litre, *Un respiro para la colonia menonita*, LA NACION LINE (July 24, 1998), at <http://www.lanacion.com.ar/98/07/24/g20.htm> (on file with the Vanderbilt Journal of Transnational Law); Mitre, *supra* note 273, at <http://www.lanacion.com.ar/98/06/13/o04.htm>.

275. Frangolini, *supra* note 256, at <http://www.lanacion.com.ar/98/10/09/g15.htm>; *Se ratificó el acuerdo con los menonitas*, LA NACION LINE (Dec. 27, 1998), at <http://www.lanacion.com.ar/98/12/27/g23.htm> (on file with the Vanderbilt Journal of Transnational Law).

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.²⁸¹ 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 1989.²⁸² 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.²⁸³ Internal difficulties include a slowing industrial production rate, low consumer confidence, and lower-than-expected revenues from tax increases.²⁸⁴ 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.²⁸⁵ 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.²⁸⁶ Later in the year, the Argentine government announced cuts in public sector salaries and pensions, as well as the shutdown of some government offices.²⁸⁷ 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.²⁸⁸ One union leader called

281. *Orderly Transition in Argentina*, *supra* note 63, at B8; Ken Warn, *Candidates Line Up to Lead Argentina's Post-Menem Era*, FIN. TIMES (London), July 24, 1998, at 3.

282. *Orderly Transition in Argentina*, *supra* note 63, at B8.

283. Ken Warn, *Argentina's Alliance Ponders Debt Burden*, FIN. TIMES (London), May 24, 2000, at 14.

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).

285. Warn, *supra* note 283, at 14.

286. Daniel Merolla, *Argentine Opposition Unites Against New Economic Belt-Tightening*, AGENCE FRANCE-PRESSE, May 30, 2000, 2000 WL 2803684.

287. Valente, *supra* note 284.

288. Kevin Gray, *Argentine Workers Protest Program*, ASSOCIATED PRESS, May 31, 2000, 2000 WL 21988314.

for citizens to engage in “fiscal disobedience”²⁸⁹—not to pay taxes, a proposal government officials called “pro-coup,”²⁹⁰ and national general strikes have deeply shaken the country.²⁹¹ Even the Catholic church has denounced the austerity programs and supported the protests.²⁹²

Double-digit unemployment adds to Argentina’s woes,²⁹³ and polls show that unemployment is the principal concern of the Argentine public.²⁹⁴ 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.²⁹⁵ When the spending cuts affected a government subsidy plan for unemployed workers, protests turned violent, complete with arson, looting, and other property damage.²⁹⁶

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.²⁹⁷ But education budgets cannot help but feel the strain.²⁹⁸ 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.²⁹⁹

What does all this mean for the future of education reform in Argentina? After all, education “thrives on stability.”³⁰⁰ Both economic and political instability have plagued Argentina, as “[d]emocracy has never come easily for Argentines . . .”³⁰¹ Despite the recent election,

289. *Argentine Unions Call for General Strike to Protest IMF Austerity Plan*, AGENCE FRANCE-PRESSE, May 31, 2000, 2000 WL 2805094.

290. *Argentina: Minister Calls Union Leader’s Call Not to Pay Taxes “Pro-Coup,”* (BBC Worldwide Monitoring, June 1, 2000), LEXIS, News Library, BBCMIR File.

291. *General Strike Halts Transport in Argentina*, AGENCE FRANCE-PRESSE, June 9, 2000, 2000 WL 2811266.

292. *Argentine Unions Call for General Strike to Protest IMF Austerity Plan*, *supra* note 289.

293. *Protest of Jobs Program Turns Violent in Argentina*, L.A. TIMES, May 13, 2000, at 11A.

294. Valente, *supra* note 198.

295. Gray, *supra* note 288. Argentina’s \$35 billion sell-off of state enterprises was one of the developing world’s most ambitious privatization plans of the 1990s. Anthony Faiola, *Argentina’s Lost World; Rush Into the New Global Economy Leaves the Working Class Behind*, WASH. POST, Dec. 8, 1999, at A1. From 1991 to 1999 in the Jujuy province alone, jobs declined from 6000 to 1500 in the steel and metal works industry; from 10,000 to 2000 in the construction industry; from 2000 to 700 in the mining industry; and from 12,000 to 6000 in the sugar industry. *Id.*

296. *Protest of Jobs Program Turns Violent in Argentina*, *supra* note 293, at 11A. One man died of a heart attack amid clashes between military police and protesters. *One Dead in Protest in Argentina [sic] Over Globalization*, AGENCE FRANCE-PRESSE, May 12, 2000, 2000 WL 2792214.

297. Valente, *supra* note 198.

298. Warn, *supra* note 283, at 14.

299. Valente, *supra* note 198.

300. Caistor, *supra* note 28, at 183 (noting the same for higher education).

301. WYNIA, *supra* note 126, at 163.

"[t]he legacy from the years under military rule is daunting."³⁰² 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,³⁰³ 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,³⁰⁴ and another has observed that some of the changes may have been abrupt for teachers and students.³⁰⁵

Despite all its current difficulties, President de la Rúa's administration still appears to be committed to important structural reforms in education.³⁰⁶ U.S. Embassy official Robert Hagen stated that it is "a sore point" with Argentines that the country is behind on the education front,³⁰⁷ an observation that indicates that reform may once again take a front seat after the current economic problems have been addressed.³⁰⁸

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,"³⁰⁹ 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.³¹⁰ As one educator stated, "Education in our country will truly be transformed when people are not in service of politicians."³¹¹

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.³¹² Perhaps it is surprising that the a country that claims to care so much about education has allowed political

302. Caistor, *supra* note 28, at 190.

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.

306. Peter Hudson, *Argentine Credit Rating Upgraded*, FIN. TIMES (London), Feb. 11, 2000, at 3.

307. Marrison, *supra* note 22, at 16A.

308. Telephone Interview by Dana Lennox with Raúl O. García, *supra* note 242.

309. Argentina: New President Vows Honesty, Austerity, L.A. TIMES, Dec. 11, 1999, at A4.

310. *Id.*

311. Interview with Oscar Greiser, *supra* note 186. Professor Greiser observed, "President Alfonsín 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."³¹³ Dr. Varela told me that "there are times of politics, and there are times of classrooms."³¹⁴ 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.³¹⁵ Without question, the national government in the United States has the ability to set the tone for needed reform and renewal.³¹⁶ 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.³¹⁷ 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.³¹⁸ Performance actually declined in two goal areas.³¹⁹ These facts may be true, but some states have been making progress toward meeting some of the defined goals³²⁰ 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.

317. Andrew Mollison, *Education Targets Elude U.S. Despite Some Success*, ATLANTA J.-CONST., Apr. 4, 1999, at A14.

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.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 2000.³²²

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.³²³ "Monitoring a long list of indicators has helped states and local school districts share information and rally around common concerns."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."³²⁵ The goals of Goals 2000 have been fairly criticized as being too vague and unrealistic.³²⁶ "The bar was set so high, no one could complain when it wasn't met."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.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

worsened in areas of school safety, parental involvement and teacher preparation); *Education Goals 2000: Most Unmet, But Still Worthwhile*, STAR-TRIBUNE (Minneapolis-St. Paul), Jan. 3, 2000, at 8A, 2000 WL 6954360 (citing progress in infant health, math proficiency and school completion in Minnesota, although some other indicators have declined); *Governors Seek to Reinforce Education Goals Set a Decade Ago*, *supra* note 9, at A9 (citing Texas and North Carolina as national models for boosting student achievement and noting that West Virginia had increased its high school graduation rate from eighty-three to ninety percent).

321. Jeffrey P. Haney, *Setting School Standards*, DESERET NEWS (Salt Lake City), May 31, 1999, at C1, 1999 WL 19519630.

322. *Governors Seek to Reinforce Education Goals Set a Decade Ago*, *supra* note 9, at A9.

323. *Education Goals 2000: Most Unmet, But Still Worthwhile*, *supra* note 320, at 8A.

324. *Id.*

325. Andrew Mollison, *Country to Fall Short on All Its "Goals 2000,"* DAYTON DAILY NEWS, Apr. 4, 1999, at 10A, 1999 WL 3959440 (quoting Richard F. Elmore of Harvard's Graduate School of Education).

326. Debra Saunders, *Education Reform Fails Miserably*, IDAHO STATESMAN, Apr. 24, 2000, at 11B, 2000 WL 20734220.

327. *Id.* One Congressional aide stated that the goals were so fuzzy that they would turn into "Goals 3000" before they could be met. *Id.*

328. Ironically, although Congress is convinced that a silent image of Joe Camel on a billboard has enticed hoards of children to smoke cigarettes, it is unwilling or unable to admit that the vivid bloodletting that children watch daily might also affect their behavior.

successfully inside the school house until a plan is developed to address this issue outside in society.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.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.”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.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

329. For an analysis of the role courts play in the issue of school order, see generally Anne Proffitt Dupre, *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).

330. John Silber, *First of All, Let’s Emphasize Basic Learning*, BOSTON HERALD, Feb. 7, 2000, at 27, 2000 WL 4316349.

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

332. *Governors Seek to Reinforce Education Goals Set a Decade Ago*, *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, *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 3H.

336. Interview with Dr. Pablo Varela, *supra* note 187.